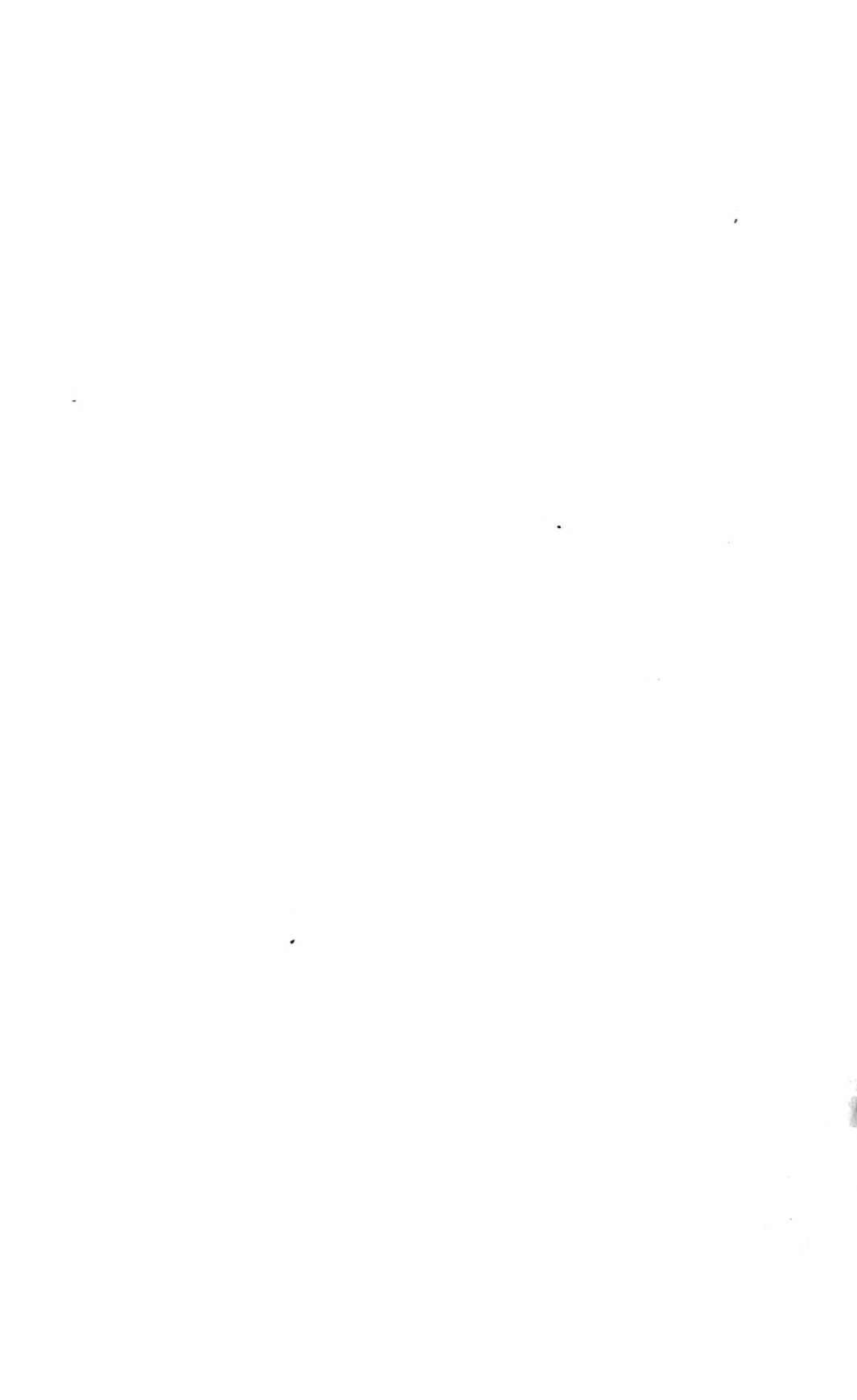




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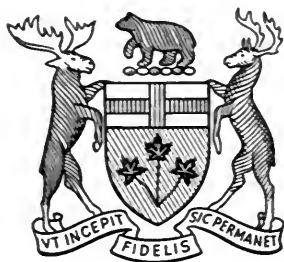
REVISED STATUTES OF ONTARIO, 1950

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED
UNDER THE AUTHORITY OF THE STATUTES
CONSOLIDATION ACT, 1949

IN FIVE VOLUMES

VOL. 4



ONTARIO

TORONTO

PRINTED AND PUBLISHED BY BAPTIST JOHNSTON
Printer to the King's Most Excellent Majesty

REVISED STATUTES OF ONTARIO, 1950

VOLUME 4

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CHAPTER 316

The Public Schools Act

1. In this Act,

Interpreta-
tion.

- (a) "board" means board of public school trustees;
- (b) "city inspector" means an inspector who devotes his full time to the inspection of the public schools of a city;
- (c) "city inspectorate" means a city where there are one or more inspectors devoting full time to the inspection of the public schools of the city;
- (d) "elector" means, in a municipality, any person entered on the last revised voters' list as qualified to vote at municipal elections and who is not a supporter of a separate school; and in a school section in an unorganized township or in an unsurveyed district, "elector" means any person who is entered on the last revised assessment roll for the school section as a public school supporter, and who is not disqualified under this Act, and who is not a supporter of a separate school;
- (e) "inspector" means public school inspector;
- (f) "inspectorate" means the territory for which an inspector is appointed;
- (g) "Minister" means Minister of Education;
- (h) "ratepayer" means person entered on the last revised assessment roll as a public school supporter for the school section or municipality;
- (i) "regulations" means regulations made under *The Department of Education Act*; Rev. Stat., c. 94.
- (j) "school section" means a locality formed of the whole of or any area in or any part of a township or of the whole or part of one or more townships or of the whole or any part of an urban municipality and the whole of or any area in or any part of an adjacent township for which a public school board has been or is established under the authority of this Act;

- (k) "school site" means land necessary for a school-house, playgrounds, school garden, teacher's residence, caretaker's residence, drill hall, gymnasium and offices connected therewith;
- (l) "secretary" or "treasurer" includes secretary-treasurer;
- (m) "separated town" means a town which does not form part of a county for municipal purposes;
- (n) "teacher" means a person holding a legal certificate of qualification;
- (o) "township" includes union of townships;
- (p) "township board" means a board having jurisdiction over all the public schools in a township;
- (q) "urban municipality" means a city, town or village. R.S.O. 1937, c. 357, s. 1.

Application
of regula-
tions.

2. The regulations, though not specially referred to, shall apply to any matter or thing contained in this Act, so far as they are consistent with this Act. R.S.O. 1937, c. 357, s. 2.

Exemption
of sup-
porters of
Roman
Catholic
separate
schools.

3. Nothing in this Act authorizing the levying or collecting of rates on taxable property for public school purposes shall apply to the supporters of Roman Catholic separate schools, except that all taxable property shall continue to be liable to taxation for the purpose of paying any liability incurred for public school purposes while the property was subject to taxation for such purposes. R.S.O. 1937, c. 357, s. 3.

Existing
school
arrange-
ments con-
tinued.

4. Until altered under the authority of this Act, all public school sections or other public school divisions shall continue as they now exist, and all trustees duly elected and all officers duly appointed shall continue in office, and all agreements, contracts, assessments and ratebills heretofore duly made in relation to public schools and existing when this Act takes effect shall continue subject to the provisions of this Act. R.S.O. 1937, c. 357, s. 4.

PUBLIC SCHOOLS TO BE FREE

Public
schools to
be free.

5.—(1) All schools established under this Act shall be free public schools, and every person between the ages of five and twenty-one years, except persons whose parents or guardians are separate school supporters, and except persons who, by reason of mental or physical defect, are unable to profit by instruction in the public schools, shall have the right to attend some such school in the urban municipality or rural school section in which he resides. R.S.O. 1937, c. 357, s. 5(1), *part.*

(2) Where a question arises as to whether or not a person can profit by instruction in a public school, the matter shall be referred to a committee appointed by the Minister for that purpose, whose decision shall be final. R.S.O. 1937, c. 357, s. 5(1), *part*. Mental or physical defects.

(3) Children between the ages of three and seven years may attend kindergarten schools, subject to the payment of such fees as to the board may seem expedient. R.S.O. 1937, c. 357, s. 5(2); 1943, c. 26, s. 10. Right to attend kindergarten schools.

(4) Every corporation, society, agent or person having the custody of a child, and being a public school supporter, shall be entitled to send the child to the public school of the municipality or school section in which the child resides as if he were the child of a ratepayer in the municipality or school section, and every such corporation, society, agent or person shall be subject to the provisions of *The School Attendance Act* in the same manner and to the same extent as a ratepayer. R.S.O. 1937, c. 357, s. 5 (3). Rights of persons having charge of children. Rev. Stat., c. 347.

SCHOOL YEAR AND HOLIDAYS

6.—(1) The school year shall consist of two terms, the first of which shall begin on the first Tuesday of September following Labour Day and shall end on the 22nd day of December, and the second of which shall begin on the 3rd day of January and end on the 29th day of June. R.S.O. 1937, c. 357, s. 6(1); 1938, c. 35, s. 28(1). Terms.

(2) When the 3rd day of January is a Friday, the schools shall not be opened until the following Monday, and when the 29th day of June or the 22nd day of December is a Monday, the schools shall be closed on the preceding Friday. R.S.O. 1937, c. 357, s. 6(2); 1938, c. 35, s. 28(2). Where opening and closing days Friday or Monday.

(3) Every Saturday, every public holiday, the 24th day of May, the 11th day of November, the day appointed annually to be celebrated officially as the birthday of the reigning sovereign, the week following Easter Day, and every day proclaimed a holiday by the authorities of the municipality in which the teacher is engaged and every day upon which a school is closed under the provisions of *The Public Health Act* or the regulations of the Department, shall be a school holiday. 1944, c. 56, s. 9. Holidays. Rev. Stat., c. 306.

(4) With the approval of the inspector, the board of a rural school section may substitute holidays in some other part of the year for part of the time herein allowed for Easter and midsummer vacations to suit the convenience of pupils and teachers, provided always that the same number of holidays be allowed in each year. In rural school sections.

Determin-
ing school
terms in
districts.

(5) When there is no county organization the inspector, subject to an appeal to the Minister, may determine the length of time, which shall not be less than six months, during which a school shall be kept open each year, and it shall be the duty of the board to keep the school open during the whole of the time so determined. R.S.O. 1937, c. 357, s. 6(4, 5).

RELIGIOUS INSTRUCTION

Religious
exercises.

7.—(1) No pupil in a public school shall be required to read or study in or from any religious book, or to join in any exercise of devotion or religion, objected to by his parent or guardian.

Religious
instruction.

(2) Subject to the regulations, pupils shall be allowed to receive such religious instruction as their parents or guardians desire. R.S.O. 1937, c. 357, s. 7.

SCHOOL VISITORS

Public
school
visitors
defined.

8.—(1) Judges, members of the Assembly, and members of municipal councils, shall be school visitors in the municipalities where they respectively reside, and every clergyman shall be a school visitor in the municipality where he has pastoral charge.

Their
powers.

(2) School visitors may visit public schools, may attend any school exercises, and at the time of any visit may examine the progress of the pupils and the state and management of the schools, and give such advice to the teachers and pupils and any others present, as they deem expedient. R.S.O. 1937, c. 357, s. 8.

SCHOOL LANDS

School lands
granted be-
fore 1850
vested in
trustees for
school
purposes.

9.—(1) All lands which before the 24th day of July, 1850, were granted, devised or otherwise conveyed to any person or persons in trust for common school purposes and held by such person or persons and their heirs or other successors in the trust, and have been heretofore vested in the public school trustees of the school section or municipality in which the lands are respectively situate, shall continue vested in such trustees, and shall continue to be held by them and their successors upon the like trusts and subject to the same conditions and for the estates upon or subject to or for which the lands are now respectively held.

Disposal of
school lands
by boards.

(2) Notwithstanding anything in subsection 1, lands originally granted or conveyed by the Crown for common school purposes and held by the trustees of a school section or municipality may be leased, sold or otherwise disposed of with the approval of the Lieutenant-Governor in Council and upon such

conditions as to the investment or application of the proceeds or otherwise as may be prescribed in the order granting the approval. R.S.O. 1937, c. 357, s.9.

SELECTION OF SCHOOL SITES BY RURAL BOARDS

10.—(1) Whenever it is deemed expedient by or it is the duty of a rural school board to erect a new school building, or to change the site of an existing schoolhouse, or where a petition in that behalf is presented by twenty-five per cent of the ratepayers of the school section, the board shall select a school site and shall thereupon call a special meeting of the ratepayers to consider the site selected by the board, whether it be the present site or a new site, and if a majority of the ratepayers present at the meeting by resolution approve of it, the site shall be adopted by the board and no site shall be adopted by the board until so approved, except as provided in subsections 2, 3 and 4.

Selection and change of school site.

(2) In case a majority of the ratepayers present at the special meeting differ from the board as to the suitability of the site selected by it, each party shall then and there choose an arbitrator, and the inspector or, in case of his inability to act, any person appointed by him to act on his behalf, shall be a third arbitrator, and the three arbitrators or a majority of them present at any lawful meeting shall make and publish their award, and may, in and by the award, approve of the site selected by the board or may change the boundaries thereof or may select such other site as the arbitrators or the majority of them deem more suitable for the purpose.

Arbitration when trustees and ratepayers differ as to site.

(3) With the consent or at the request of the parties to the reference, the arbitrators, or a majority of them, shall have authority, within one month from the date of their award, to reconsider the award and within two months thereafter to make and publish a second award, which award, or the previous one, if not reconsidered by the arbitrators, shall be binding upon all parties concerned for at least five years from the date thereof; but if the boundaries of the section have been altered before any action has been taken by the board to purchase the site, proceedings under this section may be taken for the selection of a site as if no award had been made.

Reconsideration of award, and duration.

(4) If the board or the majority of the ratepayers present at a public school meeting neglect or refuse, where there is a difference in regard to the selection of a school site, to appoint an arbitrator as provided in this Act, the inspector with the arbitrator appointed, shall meet and determine the matter, and the inspector in case of such refusal or neglect shall have a second or casting vote if he and the arbitrator appointed do not agree. R.S.O. 1937, c. 357, s. 10.

Where failure to appoint arbitrator.

ACTIONS TO SET ASIDE AWARDS

Consent of majority of ratepayers to action to set aside award.

11. No action to set aside an award made under this Act shall be undertaken by or at the instance of the board of a rural school section without the consent of the majority of the ratepayers of the section present at a special meeting duly called to consider the advisability of such action being brought. R.S.O. 1937, c. 357, s. 11.

SCHOOL WALLS AND FENCES

Fence.

12. Any wall or fence deemed necessary by the board or required by the regulations for the enclosure of the school premises shall be erected and maintained by the board. R.S.O. 1937, c. 357, s. 12.

ENLARGEMENT OF SCHOOL GROUNDS BY BOARD

Enlarge-ment of school site.

13. Where the area of a rural school site is less than is required by the regulations the board may, without reference to a special meeting of the ratepayers, enlarge the site so as to conform to the regulations. R.S.O. 1937, c. 357, s. 13.

ALTERATION OF SECTION BOUNDARIES

Union of two, or more sections.

14.—(1) The council of a township may pass by-laws,

(a) to unite two or more sections in the same township into one section if, at a meeting of the ratepayers in each section called by the board or by the inspector for that purpose, a majority of the ratepayers present at each meeting request to be united; but when all the school sections in a township have been consolidated the council may limit the number of trustees constituting the board to not less than six, after at least one month's notice in writing has been given to the secretary of the board of the intention to consider a resolution to that effect, and in such case the council may provide for the election of all trustees by a general vote of the ratepayers of the whole township or may divide the township into as many districts as there are trustees to be elected and provide for the election of one trustee for each of such districts;

Alteration, etc., of school sections.

(b) to alter the boundaries of a school section, or to divide an existing section into two or more sections, or to unite any part or parts of an existing section with another section or sections, or with a new section, or to unite parts of existing sections so as to form a new section, in case it clearly appears that all persons to be affected by the proposed alteration, division or union have been duly notified in such

manner as the council may deem expedient of the proposed by-law for that purpose, or of any application made to the council for such alteration, division or union.

(2) No such by-law shall be passed later than the 1st day of June in any year nor shall any such by-law subject to the provisions as to the formation, alteration or dissolution of union school sections, take effect, except as otherwise provided herein, before the 25th day of December next thereafter, and subject to the provisions hereinafter contained every such by-law shall remain in force unless set aside as hereinafter provided, for a period of five years.

Time for passing by-law; commencement and duration.

(3) The township clerk shall transmit a copy of the by-law immediately after the passing thereof to the board of every school section affected thereby and to the inspector.

Clerk to send copies to board and inspector.

(4) Where in the opinion of the inspector a change in the assessment, population or otherwise has so materially affected a school section that a readjustment of the boundaries thereof is required, or where part of a school section has been added to a city or town, the council of the municipality in which the section or the remaining portion of the section is situated may pass a by-law for the readjustment of the boundaries of the school section or remaining part of the school section notwithstanding the passing of a by-law or the publication of an award within five years affecting the limits of the section or part of the section or adjoining sections.

When part of section is added to city or town.

(5) Any section formed by dividing an existing section shall be deemed to be a new section for all purposes.

Status of section formed by division of section.

(6) The council of a county, at the request of a majority of the councils of the townships in the county for a readjustment of the boundaries of the school sections in the county, shall appoint arbitrators as provided by section 33.

Readjustment of boundaries of school sections in counties.

(7) The council of a county may in like manner appoint arbitrators at the request of the council of any township in the county to readjust the boundaries of the school sections in the township.

Readjustment of boundaries of school sections in townships.

(8) The arbitrators shall take action and make their award and the same may be put into effect notwithstanding that any time limit in connection with the operation of a previous award or change of boundaries has not expired. R.S.O. 1937, c. 357, s. 14.

Time limit not to prevail.

TOWNSHIP SCHOOL AREAS

15.—(1) The council of a township may by by-law, passed with the consent of a majority of the whole number of members of the council before the 1st day of July in any

By-law setting apart township school area.

year, set apart the whole or any portion of the township as a township school area and may declare that thereafter the school sections included in the township school area shall cease to exist as separate school sections and that the school boards having jurisdiction therein shall be dissolved. R.S.O. 1937, c. 357, s. 15 (1).

Inclusion
of union
school
section
within
township
school
area.

(2) The council of a township shall have the power to include a union school section within a township school area if the council of each township containing any remaining portion of the union school section passes a resolution giving its assent; and where the union school section is so included in the township school area all parts of the union shall be regarded as a part of the township for all public school purposes. 1939, c. 44, s. 16 (1); 1940, c. 24, s. 4 (1).

Certified
copy of
voters'
list.

(3) Where a township school area includes a union school section the clerk of each township any portion of which forms part of the union school section shall furnish to the clerk of the township in which the area is formed a certified copy of the list of voters qualified to vote on school matters in that portion of the township. 1944, c. 56, s. 10.

Addition to
township
school area.

(4) The council of a township may add a school section or a union school section to a township school area already established and the provisions of subsections 1, 2 and 3 shall apply *mutatis mutandis*. 1946, c. 82, s. 1 (1), *part*; 1950, c. 65, s. 1 (1).

Township
school
area,
formation of.

(5) The council of each of two or more contiguous townships may by by-law passed with the consent of a majority of the whole number of members of the council before the 1st day of July in any year, set apart the whole or any portion of the township to form a township school area with the whole or any portion of the contiguous township or townships and the provisions of subsections 1 to 4 shall apply *mutatis mutandis*.

Idem.

(6) The council of each of one or more contiguous townships and of a village or town which is contiguous to one or more of them may respectively by by-law passed with the consent of a majority of the whole number of members of each council before the 1st day of July in any year, set apart the whole or any portion of the township or townships and the whole of the adjacent village or town which together shall form a township school area and the provisions of subsections 1 to 4 shall apply *mutatis mutandis*. 1946, c. 82, s. 1 (1), *part*.

Inclusion of
unorganized
territory.

(7) The council of the township or the councils of the municipalities,

(a) establishing a township school area; or

(b) by which a township school area has been established,

may include in the area or may add to the area, as the case may be, the whole or any part of an unorganized township if the board of every school section in the unorganized territory so included or added consents thereto, and the unorganized territory so included or added shall for all public school purposes be deemed to be a part of the municipality having the largest assessment within the area, and the officers thereof shall make all assessments and collect all taxes and do all such other acts and perform all such duties and be subject to the same liabilities with respect to the unorganized territory so deemed part of the municipality as with respect to the part of the municipality actually within the township school area. 1950, c. 65, s. 1 (2), *part.*

(8) The by-law shall take effect from the 25th day of December in the year in which it is passed, but all school boards in such school sections shall remain in office until a board for the township school area has been elected and organized as hereinafter provided. When by-law to take effect.

(9) There shall be a board of public school trustees for every township school area, which shall consist of five members, and the board shall have and may exercise and perform the like powers and duties with respect to public schools in the township school area as in the case of a township board. Board of public school trustees for township school area. R.S.O. 1937, c. 357, s. 15 (2, 3).

(10) The trustees of every township school area shall hold office until their successors are elected and a new board is organized. 1950, c. 65, s. 1 (2), *part.* Term of office of trustees.

(11) The election of school trustees for the township school area shall be by ballot and shall be held for the year following the year in which the by-law takes effect and in each year thereafter, at the same time and place as the annual municipal elections of the township, and as nearly as may be in the same manner as an election of members of a municipal council, and the clerk of the township shall be the returning officer at each election, and except as otherwise provided herein all the provisions of this Act applicable to the election of trustees by ballot shall apply as nearly as may be to the election of school trustees under this section. R.S.O. 1937, c. 357, s. 15 (4). Township school area, election of trustees.

(12) Where a township school area is formed under sub-section 5 or 6, Nominations and elections where two or more municipalities in area.

- (a) the nominations for school trustees of the township school area shall be conducted by the returning officer of the municipality which has the largest equalized assessment, or where there is no equalized assessment the largest local assessment, in the township

school area, and shall be held at the same time and place as nominations for municipal councillors in that municipality;

- (b) the election of such school trustees shall take place in each municipality during the same hours and on the same day as the annual municipal elections in the municipality in which the nominations were held in the same manner as nearly as may be as the election of the members of a municipal council;
- (c) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the clerk of the municipality in which the nominations were held, who shall prepare the final summary and announcement of the vote; and
- (d) if at the first election two or more trustees receive an equal number of votes or all of the trustees are declared elected by acclamation, the clerk of the municipality in which the nominations were held shall determine which of the trustees shall hold office for two years and his determination shall be notified to the board in writing and shall be entered in the minutes of the board. 1950, c. 65, s. 1 (3).

Term of
office.

(13) Of the trustees elected at the first election the three trustees receiving respectively the highest, second highest and third highest number of votes shall hold office for two years and the two remaining trustees shall hold office for one year.

Subsequent
elections.

(14) After the first election an election shall be held in each year to fill the places of trustees whose terms of office have expired, and the trustees elected shall hold office for two years. R.S.O. 1937, c. 357, s. 15 (5, 6).

Equality of
votes at
first elec-
tion.

(15) In case, at the first election of trustees, two or more trustees receive an equal number of votes, or all the trustees are declared elected by acclamation, the clerk of the municipality shall determine which of such trustees shall hold office for two years, and his determination shall be notified to the board in writing and shall be entered on the minutes of the board. R.S.O. 1937, c. 357, s. 15 (7); 1940, c. 24, s. 4 (2).

Powers of
township
school area
board.

(16) The board of a township school area shall have the same powers as an urban public school board in the matter of the selection and purchase of school sites, the filling of vacancies on the board, and other matters of an incidental or similar nature.

(17) The council or councils of the township or townships in which a township school area has been established, upon the application of the board of the township school area, shall have the same powers to pass by-laws for borrowing money by the issue and sale of debentures as are conferred on the council of an urban municipality by subsection 1 of section 56, and the provisions of subsections 2, 3, 4 and 6 of section 56 shall, *mutatis mutandis*, apply. 1947, c. 88, s. 1. Power of council to issue debentures.

(18) Every board of school trustees of a township school area shall be a corporation by the name of "The board of school trustees of the township school area of", or by such other designation as the by-law may provide. Incorporation.

(19) Upon the election and organization of a board of public school trustees for a township school area the board of public school trustees for every school section then in existence in the township school area shall be dissolved and all the real and personal property vested in the board of any such school section shall be vested in and become the property of the board of the township school area. Vesting of real and personal property in board of township school area.

(20) The board of the township school area shall be responsible for and shall discharge all liabilities and obligations of each of the school sections included in the township school area, and the indebtedness of the board of any school section shall be provided for by a general rate levied upon all property liable to taxation for public school purposes in the township school area. Board responsible for obligations of each school in township school area.

(21) It shall not be necessary in township school areas to hold the annual meeting of the electors as required by section 71; but for the purposes of the audit of accounts, books and vouchers and the publication of the annual report of the auditors as provided in clause *t* of section 93, the board of a township school area shall be deemed to be an urban board. R.S.O. 1937, c. 357, s. 15 (8-11). Audit of accounts and publication of annual report.

(22) Where a township school area is formed under subsection 5 or 6, the provisions of subsection 21 shall apply except that the auditor of the municipality which has the greatest equalized assessment shall be the auditor of the township school area books. 1946, c. 82, s. 1 (1), *part*. Auditor.

(23) No by-law shall be passed under subsection 1, 2, 4, 5, 6 or 7 until the by-law has been submitted to and approved in writing by the Minister. 1946, c. 82, s. 1 (2); 1950, c. 65, s. 1 (4). Approval of by-laws.

(24) The provisions of subsection 1 of section 87 shall apply as to the first meeting in each year of every board elected pursuant to this section. R.S.O. 1937, c. 357, s. 15 (13). First meeting of board.

Mileage allowance and fees.

(25) The board of school trustees for a township school area may pay to each trustee a mileage allowance not exceeding seven cents for each mile necessarily travelled by him in going to the meetings of the board from his home and in returning to his home, and may pay to each trustee a sum not exceeding \$5 for each of not more than twelve meetings attended by him in any one year. 1941, c. 52, s. 12; 1949, c. 84, s. 1.

Powers and duties.

(26) All the powers and duties of the board of a school section which becomes part of a township school area shall be vested in and imposed upon the board of the township school area. 1946, c. 82, s. 1 (1), *part*.

Township school areas in unorganized territory.

16.—(1) An inspector may, with the approval of the Minister, form an unorganized township, or part of an unorganized township, or parts of two or more adjoining unorganized townships into a township school area on or before the 1st day of July in any year, provided the boards of all the rural school sections in the area have consented thereto.

Effective date.

(2) The formation of the township school area shall take effect as from the 25th day of December next following the approval of the Minister, but the boards of trustees of the rural school sections shall continue in office until a board for the township school area has been elected and organized as provided by this section.

Constitution of board.

(3) There shall be a board of five public school trustees for every such township school area and the board may exercise such powers and perform such duties with respect to the public schools of the area as a board constituted under section 15.

First election.

(4) The first meeting of the ratepayers for the election of trustees shall be held at a time and place to be named by the inspector, and shall be conducted as nearly as may be in the same manner as the election of trustees in a rural school section.

Subsequent elections: powers and duties.

(5) All subsequent elections of school trustees for the township school area shall be by ballot, and the board of trustees of the area shall exercise all the powers and may perform all duties of a municipal council in relation to the nomination and election of trustees and the assessment and collection of taxes for the township school area.

Incorporation.

(6) Every board of trustees of a township school area formed under this section shall be a corporation by the name of "The board of school trustees of the Township School Area of the unorganized township (*or* townships) of". 1940, c. 24, s. 5, *part*.

(7) For the purposes of township school areas formed under this section, and except as to matters provided for in this section, the provisions of sections 15, 44 to 49 and 71 to 73 shall apply *mutatis mutandis*. 1950, c. 65, s. 2.

17.—(1) All rights and claims between parts of a municipality or municipalities comprising the several school sections united under a township school board or into a township school area or areas shall be valued, adjusted and determined in an equitable manner by a referee to be appointed by the Minister within three months after the passing of the by-law forming the township school board or the by-law or by-laws establishing the township school area, as the case may be.

(2) The Minister and any referee appointed by him shall have and may exercise such jurisdiction and powers as may be necessary for the purpose of the valuation, adjustment and determination of all or any of such rights and claims.

(3) A referee appointed under this section shall proceed to hear and report to the Minister upon such rights and claims as the Minister may from time to time direct, and he shall submit his report to the Minister within three months of his appointment or within such further time as the Minister may allow, and he shall be paid for his services such fee as the Minister may direct.

(4) Upon the report of the referee being filed with him, the Minister shall consider the report and may hear such representations in respect thereof as he may see fit, and before adopting the report he may refer it back to the referee for his further consideration.

(5) The Minister may adopt, vary or amend the report and his decision shall be final and conclusive and not open to question or appeal, and shall be binding upon each municipality and the ratepayers of each municipality and of any school section affected thereby.

(6) The council of the township, in the case of a township school board, shall annually impose and levy such special rates against the lands assessable therefor as may be directed by the Minister for the purpose of adjusting the rights and claims of any school section or other area.

(7) The council of the township or the council of each municipality, all or a portion of which is included in a township school area, shall annually impose and levy such special rates against the rateable property in the municipality, which is within the township school area, as may be directed by the Minister for the purpose of adjusting any rights and claims determined under this section.

When by-laws to be effective.

(8) No by-law passed under section 14 or 15 shall come into force until the Minister has approved of it and had made an order under subsection 5.

Adjustment of claims in certain areas.

(9) For the purpose of evaluating, adjusting and determining all rights and claims,

- (a) between parts of a municipality or municipalities and parts of an unorganized township or townships formed into a township school area under subsection 7 of section 15; and
- (b) between school sections within township school areas formed under section 16,

the provisions of subsections 1 to 8 shall apply *mutatis mutandis*. 1950, c. 65, s. 3.

Agreement with urban board.

18. Subject to the approval of the Minister, the board of public school trustees of a township school area may enter into an agreement with the board of education or board of public school trustees of an adjacent urban municipality for the purposes and in the manner provided by section 92. R.S.O. 1937, c. 357, s. 17.

Exemption from township rate.

19.—(1) Where the board of public school trustees of a township school area has entered into an agreement under section 18, the council of the township may exempt the taxable property of the public school supporters in the township school area from the general rate required to be levied under section 115, but the exemption shall not be granted until the Minister has given his approval thereto in writing.

Where exemption granted township school area not to share in rate.

(2) Where an exemption is granted from the township rate under subsection 1, the township school area shall not share in the expenditure of any sum raised by any such general rate, nor shall it be necessary for the township council in fixing such rate to take into account schools in the township school area. R.S.O. 1937, c. 357, s. 18.

METROPOLITAN SCHOOL AREAS

County by-law setting aside metropolitan school area.

20.—(1) The council of any county in which there is situate a city having a population of not less than 100,000 may, subject to the approval of the Lieutenant-Governor in Council, by by-law passed before the 1st day of July in any year set aside any defined area in the county adjacent to the city as a metropolitan school area and in and by the by-law shall name the person to be the secretary-treasurer of the metropolitan school area until some other person is appointed by the metropolitan public school board to be established as hereinafter provided.

(2) Where a by-law has been passed under subsection 1, ^{Board.} there shall be established a metropolitan school board for the metropolitan school area and the board shall consist of one member elected by the vote of the supporters of public schools in each municipality or portion of a municipality included in the metropolitan school area and of six members to be elected by general vote of the public school supporters throughout the metropolitan school area.

(3) The members of the board to be elected in each such ^{Election of} municipality or portion of a municipality shall be elected in ^{representa-} the same manner and at the time and place provided for the ^{tives in} election of members of the municipal councils in the ^{local muni-} municipalities included in the metropolitan school area, and the first ^{cipalities.} election shall take place at the municipal election held next after the passing of the by-law, and the persons qualified to vote shall be those only who are qualified to vote for public school trustees in the municipality or portion of a municipality.

(4) The members so elected shall be elected annually. ^{Annual} ^{election.}

(5) The members of the board shall possess the same ^{Qualifica-} qualifications as urban school trustees. ^{tion.}

(6) The secretary-treasurer shall be the returning officer ^{Returning} for the metropolitan school area. ^{officer.}

(7) Nominations for the election of the six members of ^{Nomina-} the board to be elected by general vote shall be made by filing ^{tions for} in the office of the returning officer on or before the hour of ^{election of} two o'clock in the afternoon of the last Monday in the month ^{members by} of November a nomination paper in writing signed by at ^{general} least one hundred persons qualified to vote at the election ^{vote.} being entered on the voters' list as public school supporters in the metropolitan school area, and the nomination paper shall contain the names, addresses and qualification in respect of which each person signing the paper has the right to vote and the signatures to such nomination paper shall be witnessed by some person of the age of twenty-one years and qualified as aforesaid.

(8) No person shall be qualified to be elected by general ^{Residence} vote unless he is a resident in the metropolitan school area and ^{required.} qualified to vote as a public school supporter therein.

(9) If more than six persons are nominated then immedi- ^{Poll.} ately after the expiry of the time for filing the nomination paper the returning officer shall notify the clerk of each local municipality the whole or any portion of which is included in the metropolitan school area, of the names, addresses and occupations of the persons so nominated, and the clerk of every such local municipality shall cause ballots to be printed

in the same manner as nearly as may be as in the case of the election of school trustees in the municipality, setting out the names, addresses and occupations of each person so to be elected by general vote, and the polls shall be taken in the same manner and at the same time and place as in the case of the election of members of the board representing local municipalities.

Returns
from local
municipalities.

(10) At the close of the poll in each local municipality the clerk or other local returning officer shall transmit to the returning officer a statement showing the votes cast for each candidate, including the candidates for election as representatives of the local municipality and upon the receipt of the last of such returns the returning officer, at the hour of two o'clock in the afternoon on the third Monday in January next after the last of such elections shall at his office make up from the statements so received by him the total number of votes cast for each candidate and publicly declare the result of the election, and the returning officer shall thereupon certify in writing over his hand and seal the names of the persons so elected and shall deliver or send by post a copy of such certificate to each of the candidates.

Term of
office of
members
elected by
general
vote.

(11) The six members elected by general vote at the first election shall hold office for two years and an election shall be held in every second year in the manner hereinbefore provided.

Vacancies.

(12) Where any member of the board dies, retires from office or vacates his seat by reason of disqualification or by reason of non-attendance, or becomes incapable of acting, the board shall, at the next meeting after the occurrence of the vacancy, appoint a duly qualified person to fill the vacancy for the remainder of the term for which the person whose office has become vacant was elected.

First meet-
ing in year.

(13) The first meeting of the board shall be held at the hour of two o'clock in the afternoon on the last Monday in January next after the passing of the by-law mentioned in subsection 1 and thereafter the first meeting of the board for each year shall be held annually at the same time and on the same day, and the board in each year shall be organized by the election of a chairman who shall thereafter preside, but until the election of a chairman the secretary-treasurer shall preside.

Dissolution
of existing
boards.

(14) Until the time of the organization of the first board, the existing school trustees of the various public school boards of the municipalities included in the metropolitan school area shall continue to hold office, but upon the organization of the board for the metropolitan school area the public school boards theretofore established in the area shall be dissolved

and all real and personal property, vested in the boards, together with all rights and privileges theretofore vested in them, shall be vested in the metropolitan school board.

(15) Where a metropolitan school board is established under this section the board shall at its first meeting in each year appoint three persons, who need not be members of the board, and who shall constitute an equalization commission whose duty it shall be to equalize the assessment for public school purposes in the various municipalities included in the metropolitan school area, and the equalization commission shall make its report to the board within two months after its appointment. Equalization commission.

(16) A copy of the report of the equalization commission shall be forwarded to every municipality included in or a portion of which is included in the metropolitan school area. Report of equalization commission.
R.S.O. 1937, c. 357, s. 19 (1-16).

(17) An appeal shall lie on behalf of any municipality from the report of the equalization commission to the judge of the county court of the county, who shall hear and determine the appeal, and an appeal shall also lie to the Ontario Municipal Board from a decision of the county judge or from the report of the equalization commission where no appeal is taken to the county judge. Appeal.
R.S.O. 1937, c. 357, s. 19 (17);
1949, c. 84, s. 2.

(18) The procedure upon such appeal shall be the same as nearly as may be as in the case of an appeal from the decision of the county council upon the equalization of assessment for county purposes. Procedure on appeal.

(19) For the purposes of this Act, a metropolitan school area shall be deemed to be an urban municipality, and the metropolitan public school board may issue debentures in its corporate name in the same manner as nearly as may be as in the case of debentures issued by a municipal corporation for public school purposes and all the provisions of *The Municipal Act*, and of this Act, with respect to the issue of debentures for public school purposes shall apply, but it shall not be necessary to obtain the assent of the electors in the metropolitan school area to any by-law for the issue of debentures of the board in any case where the Ontario Municipal Board, upon the application of the metropolitan public school board, certifies in writing that the annual rate required to meet the payment of principal and interest on any issue of debentures will not exceed, together with any already issued and outstanding, thirty per cent of the total rate required to be levied for public school purposes in the metropolitan school area. Debentures. Rev. Stat., c. 243.

Board to assume liabilities and obligations of existing boards.

(20) The board of the metropolitan school area shall be responsible for and shall discharge all liabilities and obligations of each of the school sections or municipalities included in the metropolitan school area and any indebtedness of the board of any school section or municipality shall be provided for by the general rate levied upon all property liable for taxation for public school purposes in the metropolitan school area.

Annual estimates.

(21) The metropolitan school board shall annually, on or before the 1st day of March, make up its estimates of the cost of establishing, equipping and maintaining public schools in the metropolitan school area and the same shall be raised, levied and collected by general rate levied upon all property liable to taxation for public school purposes in the metropolitan school area.

Apportionment of amount required.

(22) The board shall apportion to each municipality, all or any part of which is included in the metropolitan school area, the amount to be raised in that municipality, and it shall be the duty of the council of that municipality to raise, levy and collect the amount accordingly.

No other rates to be levied or shared in.

(23) No rates for public school purposes other than those provided for by this Act shall be raised, levied or collected in the metropolitan school area, and the metropolitan school area shall not share in the expenditure of any sum raised by any such rate except the rates to be levied and collected for the metropolitan school board under the authority of this Act.

Rural schools in metropolitan school area.

(24) Notwithstanding anything in the foregoing subsections, a public school in any part of a metropolitan school area which, if such part were not included in the metropolitan school area, would be a rural school, shall be deemed a rural school for the purposes of this Act, except as otherwise expressly provided in this section. R.S.O. 1937, c. 357, s. 19 (18-22).

APPEALS FROM TOWNSHIP COUNCIL

Appeal to county council.

21.—(1) A board or any five ratepayers of any one or more of the school sections concerned, may within twenty days, by notice filed in the office of the county clerk, appeal to the county council of the county in which the section or sections are situate against any by-law of the township council for the formation, division, union or alteration of their school section or sections, or against the neglect or refusal of the township council, on application being made to it by a board or any five ratepayers concerned, to form, unite, divide or alter the boundaries of a school section or school sections within the township.

Time for appeals.

(2) The time for appeal shall run from the date of the by-law complained of or from the date of the meeting at which

the council refused to pass the by-law, or from the second meeting after which notice was received by the clerk of the application of the board or ratepayers asking for the by-law to be passed, as the case may be.

(3) The county council may, if it thinks fit, appoint a <sup>Appoint-
ment of</sup> board of arbitrators consisting of not more than five and not less than three competent persons, two of whom shall be the county judge or some person named by him, and the inspector, and a majority of whom shall form a quorum to hear the appeal and to form, divide, unite or alter the boundaries of the school section or school sections so far as to settle the matters complained of.

(4) Due notice of the alteration or of the determination of ^{Notice.} the arbitrators shall be given by the inspector to the clerk of the township and to the school boards concerned.

(5) In a provisional judicial district the appeal shall be to <sup>Appeals in
territorial
districts.</sup> a board of three arbitrators composed of the judge of the district court or some person named by him, the inspector, and some person appointed by by-law or resolution of the township council.

- (a) The notice of appeal shall be given to the clerk of the township, the inspector and the judge.
- (b) The township council, at its first meeting after service of the notice upon the township clerk, shall appoint their arbitrator, and the clerk of the township shall forthwith notify the inspector of the appointment.
- (c) The judge, upon receipt of the notice of appeal, shall notify the inspector in writing of his willingness to act as arbitrator, or shall name some person to act in his stead and notify the inspector in writing of the appointment.
- (d) When the board is complete the judge or his nominee shall convene the first meeting of the board and he shall be chairman thereof.

(6) The alterations or determination of such matters except <sup>When
alterations
or deter-
mination
of appeal to
take effect,
duration.</sup> as otherwise provided herein, shall not take effect before the 25th day of December in the year in which the award is made, and shall thence continue in full force for the period of at least five years, and thereafter until changed under this Act.

(7) No person shall be nominated or appointed arbitrator <sup>Who may
act as</sup> who is a member of the township council or who was a mem- ^{arbitrators.} ber at the time at which the council passed or refused or neglected to pass the by-law. R.S.O. 1937, c. 357, s. 20.

CONSOLIDATED SCHOOLS

Agree-
ments for
consolida-
tion.

22.—(1) For the purpose of establishing and maintaining consolidated schools, agreements may be entered into for the consolidation of school sections, union school sections or incorporated villages, or union school sections composed of portions of townships and incorporated villages or portions of incorporated villages, or for the consolidation of any of these with any of the others.

Provisional
division of
school
section.

(2) Where the council of a township deems it desirable, for the purposes of facilitating the establishment of a consolidated school, that a school section in the township should be divided, the council may, at any time, by by-law, divide the school section into two or more provisional school sections, and for the purpose of entering into an agreement under subsection 1, each part of the section so divided shall be deemed a separate school section, but such division shall not have effect or apply for any other school purpose until a consolidated school section has been established as provided in this section.

(a) Upon the establishment of a consolidated school section, including part of the section so divided, the council of the township may, by by-law, annex the remaining portion of the section to any contiguous school section, or may constitute it an independent school section.

Approval
of rate-
payers.

(3) The agreement shall be approved by the ratepayers in each section, and of any village or union school section or provisional school section party thereto in the manner following, that is to say,

(a) in the case of a school section or provisional school section or a union school section which does not include an incorporated village or any part of an incorporated village, by a resolution of the ratepayers at a special meeting duly called for that purpose;

(b) in the case of a village, by a vote of the ratepayers who are public school supporters in the village, upon a question to be submitted in the manner provided by *The Municipal Act*;

(c) in the case of a union school section comprising a part or the whole of an incorporated village and a portion of a township,

(i) by a resolution of the ratepayers of each school section or portion of a school section included in a union school section lying in the township, to be passed at a meeting of the ratepayers of the section or portion of the section specially

called for that purpose, in the manner provided by this Act with respect to public school meetings in rural school sections, and

- (ii) by a vote of the ratepayers in the village or part of a village included in the union school section, to be taken in the manner provided by clause *b*.

(4) The agreement shall provide for the apportionment and distribution of the assets and liabilities of the respective boards to be consolidated, and may provide for the levying of a special rate for a term of years in any part of the consolidated school section, in order to give effect to the apportionment and distribution, or the agreement may provide for the apportionment and distribution and for the fixing of any such special rate by a board of arbitrators, to be composed of the inspector, the judge of the county or district court of the county or district, and one person to be named by the council of the local municipality or by the councils of each of the local municipalities in which the consolidated school section or any part thereof is situated, and in case the number of arbitrators so chosen is an even number, an additional arbitrator may be appointed by the Minister.

Apportionment and distribution of assets and liabilities.

(5) Where a consolidated school section includes territory lying in two or more townships,

Where territory included lies in two or more townships.

- (a) the agreement for forming the consolidated school section shall determine what proportion of the cost of establishing and maintaining the school shall be borne by each township, or shall provide that the proportion shall be determined by the award of the arbitrators mentioned in subsection 4, and the same shall be annually raised, levied and collected upon the property liable to taxation for public school purposes in that portion of the consolidated school section lying within the boundaries of the township; and
- (b) the proportions of the sums to be raised under section 115 for consolidated schools by the corporation of each of the townships interested shall be determined by agreement between the corporations of the townships, or in default of agreement, by the board of arbitrators provided for in subsection 4.

(6) Where a consolidated school section includes a village or a portion of a village, the agreement shall determine,

Where village or portion of village included.

- (a) what portion of the cost of establishing and maintaining the school shall be borne by the village and

by the township or townships, and that the same shall be annually raised, levied and collected by the village and by the township or each of the townships respectively, upon the property liable to taxation for public school purposes in that portion of the consolidated school section lying within the boundaries of the municipality;

- (b) the proportion of the sums raised under section 115, which shall be borne by the corporation of the township or of each of the townships interested,

or the agreement shall provide that the matters referred to in clauses *a* and *b* shall be determined by the award of the arbitrators mentioned in subsection 4.

Election of
trustees
where
village
included.

(7) Where a consolidated school section includes a village or a portion of a village, or a police village or a portion of a police village, the agreement may provide for the election of a member or members of the board of trustees of the consolidated school section by the ratepayers of the village or police village or that portion of the village or of the police village lying within the consolidated school section, and for the election of the remaining trustees by the ratepayers of that portion of the consolidated school section lying within the township or townships, and for the term of office of each of the trustees first elected and their retirement and the election of their successors as far as possible in conformity with the provisions of subsections 10 and 11.

Approval of
Minister.

(8) The agreement for consolidation shall not come into force or take effect until it has been submitted to and approved by the Minister.

Agreement
to be valid
after
approval.

(9) After the approval of the agreement by the Minister, it shall not be open to question upon the ground that the procedure prescribed by this section has not been followed or that there has been any irregularity or informality in such procedure, or upon any other ground whatsoever.

When to
take effect.

(10) Upon the approval of the agreement in writing by the Minister the agreement shall take effect forthwith, and thereupon the territory included in the agreement shall form a consolidated school section, and the first election of a board of trustees for the consolidated school section shall be held on a date to be fixed by the Minister.

Election of
board.

(11) Subject to the terms of any agreement entered into under subsection 7, there shall be elected for the section a board of trustees to be composed of five members, one of whom shall be elected to hold office from the date of the first election until the date of the second annual municipal

election held after the first election of trustees; two of whom shall be elected to hold office until the date of the third annual municipal election after the first election of trustees; and two of whom shall be elected to hold office until the date of the fourth annual municipal election after the first election of trustees; and thereafter at every annual municipal election a trustee or trustees shall be elected in place of the retiring member or members of the board and shall hold office for a term of three years and until his or their successor or successors are elected.

(12) The election of trustees shall be by ballot and shall be held as nearly as may be in the same manner as the election of members of a municipal council, and the secretary and secretary-treasurer of the board, or, in the case of the first election, a person appointed by the inspector, shall be the returning officer for the election, and all the provisions of this Act applicable to the election of school trustees by ballot shall apply as nearly as may be to the election of trustees under this section.

Procedure
at election.

(13) Upon the election of a board of trustees of a consolidated school section, each of the boards in the territory consolidated shall be deemed to be dissolved and all the real and personal property vested in each of the boards shall become vested in the board of trustees of the consolidated school section, which board shall be a corporation by the name of "The Board of Trustees of Consolidated School" (*inserting name of school*), and shall possess all the powers and perform all the duties and be subject to all the liabilities conferred and imposed by this Act on the trustees of public schools.

Dissolu-
tion of
former
boards, and
corporate
name of
board.

(14) Until a consolidated school is established, the board of trustees of the consolidated school section shall have the management and control of each of the schools in the territory consolidated, and shall have and may exercise and perform with respect to every such school the powers and duties theretofore vested in the board of public school trustees having the control and management of the school.

Manage-
ment of
schools
pending
establis-
hment of
consoli-
dated
school.

(15) The board of trustees of a consolidated school, with the approval of the Minister, may sell and dispose of the schoolhouses and other school property in the territory consolidated, and the proceeds thereof shall be applied in accordance with the terms of the agreement or award referred to in subsection 4.

Disposing
of school
prop-
erty in
sections
consoli-
dated.

(16) Subject to the regulations, the board of trustees of a consolidated school section may provide for the conveyance of pupils to and from school and for the cost thereof as part of the cost of maintenance of the school.

Transpor-
tation of
pupils.

Name of school. (17) The board of trustees, with the approval of the Minister, may select a name for the school.

Approval of plans, etc. (18) The plans of any consolidated school building and the selection of a site therefor shall in every case be subject to the approval of the Minister. R.S.O. 1937, c. 357, s. 21 (1-18).

Deemed rural school for purposes of legislative grants. (19) For the purposes of the legislative grant for public and separate school purposes every consolidated school shall be deemed to be a rural school. R.S.O. 1937, c. 357, s. 21 (19); 1945 (2nd Sess.) c. 8, s. 18.

Regulations. Rev. Stat., c. 94. (20) Regulations may be made in the manner provided by *The Department of Education Act*, providing,

- (a) for the form of agreement for the establishment of a consolidated school and the manner in which and the persons by whom the agreement shall be executed or authenticated;
- (b) for the procedure at any school meeting called for the approval of the agreement or on taking a vote of the ratepayers;
- (c) for plans and specifications of consolidated school buildings and outbuildings connected therewith;
- (d) for the number of teachers to be employed and the rooms and other accommodation and school supplies to be furnished in each school;
- (e) for equipment and appliances to be provided in the school;
- (f) for the apportionment and payment of any sums appropriated by the Legislature for consolidated school purposes, and the application thereof to the purchase of a site and the erection of school buildings thereon and the expenses of providing means of transportation for pupils to and from school;
- (g) for giving such directions as may appear to be necessary to carry out the provisions of this Act relating to the election of trustees and the holding of meetings, and for the guidance of returning officers, chairmen and other officers and persons charged with any duty respecting the election, and for modifying or altering any provision of this Act relating to such elections or meetings when the same appears to be inconvenient or impracticable, and for making due provision for circumstances which are not provided for or contemplated by this Act;
- (h) for permitting the board of trustees of a consolidated school and the trustees of any adjacent school sec-

tion to enter into an agreement for incorporating the school section in the consolidated school section, and for prescribing the method in which the rights and liabilities of the respective boards shall be determined and the agreement consummated;

- (i) for determining all questions which may arise as to the rights, powers and duties of the board of trustees of a consolidated school section with respect to any matter as to which no express provision is made by this Act.

(21) The trustees of a consolidated school section at their first meeting and at the first meeting in each year thereafter for which an election has been held shall elect a chairman.

Chairman
of board.

(22) The secretary of the board, or in the case of the first meeting of the board a person appointed by the inspector for that purpose, who shall be a ratepayer in the consolidated school section, shall preside at such election, and in case an equal number of votes is given for two or more candidates he shall give a casting vote.

Election of
chairman.

(23) The councils of two or more townships, portions of which constitute a union school section, on the petition of five ratepayers resident in each of the municipalities concerned may, with the approval of the Minister, pass by-laws for dividing the union school section into two or more provisional school sections, and for the purpose of entering into an agreement under subsection 1, each part of the union school section so divided shall be deemed a school section, but such division shall not have effect or apply for any other school purpose until a consolidated school section has been established.

Where
union school
section in
two or more
townships
included in
consoli-
dated school
section.

- (a) Upon the establishment of a consolidated school section including part of a union school section so divided, the remaining portion of the school section may constitute a school section or a union school section, as the case may be, or may be annexed to any contiguous school section or union school section.

Where part
only of
union sec-
tion is
included.

(24) If, within two years after the approval of the Minister in accordance with subsection 10, the ratepayers have not voted the money required by the trustees for the erection of the school, the question of dissolving the consolidation shall be submitted by the board to a vote of the ratepayers in the same manner, as nearly as may be, as that provided for the election of trustees, and if a majority of the ratepayers who vote on the question are in favour of dissolving the consolidation, the Minister may approve of the dissolution and the return of the sections to their former status. R.S.O. 1937, c. 357, s. 21 (20-24).

Question of
dissolution
to be sub-
mitted to
electors.

Grants to schools in sections having extended areas.

23. Where the boundaries of a school section are extended so as to include territory in which children reside who are entitled to attend the school and whose place of residence is at a greater distance than three miles by the nearest highway from the school, the Minister may, subject to the regulations, make grants out of the appropriation for consolidated schools for the transportation of pupils and for the erection of school buildings, where, in the opinion of the Minister, such transportation and school buildings have become necessary by reason of the extension. R.S.O. 1937, c. 357, s. 22.

Council of urban municipality to issue consolidated school debentures.

24. Subject to the terms of the agreement for the establishment of a consolidated school, where a consolidated school area includes an urban municipality and a rural school section or rural school sections or parts thereof, application for the issue of debentures shall be made by the board of the consolidated school area to the council of the urban municipality, and subsections 5 and 6 of section 56 shall apply *mutatis mutandis*. R.S.O. 1937, c. 357, s. 23.

Issue of debentures by township in which school is situate.

25. Subject to the terms of the agreement for the establishment of a consolidated school, where a consolidated school area consists of school sections or parts of school sections situate in two or more districts, any debentures which may be issued upon the requisition of the board of the consolidated school area shall be issued by the council of the township in which the school is situate, and the provisions of section 58 shall apply *mutatis mutandis*. R.S.O. 1937, c. 357, s. 24.

Where consolidated school section includes parts of two or more municipalities.

26. Where a consolidated school section includes portions of two or more municipalities lying in the same county or in different counties, subject to the terms of the agreement for the establishment of a consolidated school, the money required to be raised for the purposes of the school shall be raised in the like manner, and the assessment upon which rates are levied for consolidated school purposes shall be equalized in the like manner as nearly as may be as in the case of a union school section similarly composed. R.S.O. 1937, c. 357, s. 25.

Consolidation of schools in one section.

27. Where two or more schools have been established in a school section and the board of trustees of the section, by resolution approved of by the ratepayers at a meeting specially called for that purpose, signify their desire to establish a centrally located school in place of the schools theretofore maintained in the section, the Minister may authorize the establishment of a school in a location approved by him and in conformity with the regulations, and may direct that such school shall, for the purposes of sharing in any grant made under the authority of section 22, and for the purposes of

sharing in any township grant made under section 115, be deemed to be a consolidated school. R.S.O. 1937, c. 357, s. 26, *amended*.

28.—(1) Where the council of a township has passed or passes a by-law under subsection 1 or section 14 to unite two or more school sections, and the school established or to be established in the section requires the employment of two or more teachers and it is necessary to provide means of transportation for the pupils of the school, the Minister, subject to the regulations and upon the application of the board of trustees of the school section approved of by the ratepayers as provided in subsection 3 of section 22, may declare the school section to be a consolidated school section, and thereafter section 22 shall apply thereto as if the school section were a consolidated school section established by agreement under subsection 1 of the said section. Union school section may become consolidated school section.

(2) Where the councils of two or more townships have passed or pass a by-law under section 32 for the formation of a union school section, the same terms and conditions, *mutatis mutandis*, shall apply as in the case of subsection 1 above. R.S.O. 1937, c. 357, s. 27. Terms.

ADJUSTMENT OF CLAIMS BETWEEN SECTIONS

29.—(1) On the formation, dissolution, division or alteration of any school section or sections in the same township, in case the boards of the sections interested are unable to agree, the inspector and two other persons appointed by the township council shall, as arbitrators, value, adjust and determine in an equitable manner all rights and claims consequent upon such formation, dissolution, division or alteration between the respective parts of the township affected, and the determination of the arbitrators or of any two of them shall be final and conclusive. Adjustment of claims between members of unions in same township.

(2) Where there are more inspectors than one, the township council shall name the inspector who is to act. R.S.O. 1937, c. 357, s. 28. Where more inspectors than one.

SALE OF SCHOOL PROPERTY

30.—(1) When a school site, schoolhouse or other school property is no longer required, in consequence of the alteration or the union of school sections, the same shall be disposed of in such manner as a majority of the ratepayers in the altered or united school sections may decide at a meeting duly called for that purpose. Disposal of school property when not required.

Application of proceeds where ratepayers transferred from one section to another.

(2) Where ratepayers are transferred from one school section to another the board of the section to which they are transferred shall be entitled, for the public school purposes of the section, to such a proportion of the proceeds of the sale as the assessed value of the property of the ratepayers so transferred bears to that of the whole number of ratepayers of the school section to which they belonged before the separation, and the residue of such proceeds shall be applied to the erection of a new schoolhouse or to other public school purposes in the old school section.

Application of proceeds in union sections.

(3) In the case of united sections the proceeds shall be applied to the public school purposes of the united section. R.S.O. 1937, c. 357, s. 29.

Disposal of school site, schoolhouse, etc.

(4) In the case of an urban municipality or school section where the school site, schoolhouse or other school property is no longer required, in consequence of there being no public school supporters, such school site, schoolhouse or other school property shall be disposed of in such manner as the Minister may decide, and the proceeds shall be applied to public school purposes as determined by the Minister. 1938, c. 35, s. 29.

VALIDITY OF SCHOOL ARRANGEMENTS AND PROCEEDINGS

School sections and union sections confirmed.

31.—(1) Whenever a school section or a union school section has existed in fact for three months and upwards, and whether it has been formed in accordance with the provisions of the law or not, it shall be conclusively deemed to have been legally formed and shall continue to exist, subject however to the provisions of this Act as far as applicable, as if such section had been formed thereunder, unless in the meantime proceedings have been taken calling in question the legal status of the section and notice thereof has been given to the persons who, according to the practice of the court in which the proceedings are taken, ought to be served with notice thereof, and such proceedings result in its being determined that the section has not been legally formed.

When award may be cancelled.

(a) Provided that where the boundaries of one or more school sections have been altered by the award of a board of arbitrators under the provisions of this Act and the award has not been acted upon for a period of two years, the Minister may cancel the award and may direct the appointment of new arbitrators or may himself appoint arbitrators for the reconsideration of the matter, and where the arbitrators are appointed by the Minister their award shall not be subject to any appeal.

When cancellation to take effect

(b) Where an award is cancelled by the Minister as provided in clause *a*, the cancellation shall be deemed

to have had effect from the time of the making of the award.

(2) No proceeding in or in relation to the formation, alteration or dissolution of a rural school section or of a union school section, and no arbitration or award in reference thereto or as to any matter which by the provisions of this Act is to be or may be determined by arbitration shall be deemed to be invalid or shall be set aside because of the failure to comply with the provisions of this Act applicable to the proceeding, arbitration or award, unless, in the opinion of the tribunal before which the proceeding, arbitration or award is called in question, the same, if allowed to stand, will cause substantial injustice to be done to the persons affected thereby, or some of them.

No proceeding invalid-
dated unless
where
substantial
injustice.

(3) Should any question arise touching the validity of the proceedings in or in relation to the formation, alteration or dissolution of a rural school section or of a union school section, or touching the selection, adoption or change of a school site, or touching any by-law of the council of any municipal corporation in any way relating to such matters or any or either of them, or touching any arbitration or award heretofore or hereafter had or made under the provisions or authority of this Act, the same shall not be raised or determined by action or proceeding in the Supreme Court, but shall be raised, heard and determined upon a summary application to the judge of the county or district court of the county or district in which the school section or some part thereof is situate, and the decision of the judge shall be final and conclusive unless special leave to appeal therefrom is given by the Supreme Court or a judge thereof, and if such leave be given an appeal shall lie to the Supreme Court upon questions of law only, upon and subject to such terms and conditions as the Court or judge giving the leave shall prescribe.

Jurisdic-
tion of
county or
district
judge.

(4) Where the question touches an arbitration or award to which the judge has been a party, the application shall be heard and determined by the judge of the county or district court of the adjoining county or district which has the largest population according to the last Dominion census. R.S.O. 1937, c. 357, s.30.

Appeals
where judge
is
arbitrator.

UNION SCHOOL SECTIONS

32.—(1) A union school section may be formed between parts of two or more adjoining townships, or a union may be formed between parts of one or more townships and an adjoining urban municipality not being a city or a separated town, and in such case the union shall be considered an urban municipality.

What
unions may
be formed.

How union school section to be formed.

(2) A union school section may be formed consisting of a part of a township or parts of two or more townships and an adjoining city or separated town where the suburban school section or sections concerned, by a majority vote at a meeting of the ratepayers in such section or in each of such sections regularly called, approves of such annexation, and such union is also approved by the urban board, and the union shall take effect on the 25th day of December next after the union has been confirmed by by-laws passed by the councils of the township and the city or separated town respectively, at the request of the boards of the suburban school section or sections and of the city or separated town.

Assessment in such cases.

(3) Where a union school section is established under subsection 2, the assessment for school purposes of all property liable to taxation in the rural portion of the union school section shall be fixed from year to year by a board of three arbitrators, one of whom shall be appointed by each of the townships interested, one by the council of the city or town and one by the Minister.

Assessment roll.

(4) For the purpose of subsection 3 the assessor of the township in which the rural portion of the union school section is situate shall deliver a copy of the assessor's roll or so much of it as may be necessary, to the board of arbitrators who shall within two weeks thereafter return the same to the assessor with the assessment required for school purposes.

Board to determine proportion of annual requisition.

(5) The board of arbitrators shall, after they have completed the revision and before the 1st day of June, meet and determine what proportion of the annual requisition made by the board for school purposes shall be levied upon and collected from the taxable property of the public school supporters in the rural portion of the union section.

Township council to levy.

(6) The council of the township in which the rural portion of the union school section lies shall levy in each year on all the property liable for assessment for school purposes in the rural portion of the union school section according to the assessment fixed as provided in subsection 3 a rate equal to the rate imposed by the corporation of the city or town for public school purposes.

Corporate name.

(7) Except where the section is an urban municipality, the board shall be a corporation under the name of "The Board of Public School Trustees of Union School Section number in the".

Procedure for formation, alteration or dissolution of union.

(8) A union school section may be formed, altered or dissolved on the petition of five ratepayers from each of the municipalities concerned to their respective councils asking for the formation, alteration or dissolution of the section.

(9) Each of the councils so petitioned may appoint an arbitrator who shall not be a member of the council, and notice of the appointment shall be sent by the respective clerks to the inspector or inspectors of the district or districts concerned who shall also be arbitrators. Appointment of arbitrators.

(10) A council may act upon a petition addressed to the councils concerned or to any two or more of them jointly if the petition is signed by five ratepayers of the municipality acting thereon. Petition of council.

(11) Where there would otherwise be an even number of arbitrators the judge of the county or district court, or some person named by him, shall be added, and where the arbitration affects two or more counties or districts the judge of the county or district court of the county or district which has the largest population according to the last Dominion census, or some person named by him, shall be added. Where even number of arbitrators appointed, county judge to act.

(12) The arbitrators, or a majority of them, may make and publish the award. Majority award.

(13) The first meeting of the arbitrators shall be called by the senior inspector, who shall give ten days' notice in writing of the meeting to the clerks of the municipalities concerned who shall forthwith notify the arbitrators appointed by their respective councils. First meeting of arbitrators.

(14) Where the arbitrators determine upon the formation of a new union section, or upon the alteration of the boundaries of an existing union section, they shall in their award set forth the specific parcels of land to be included in the new union section or in the altered section as the case may be. Award, what to contain.

(15) In the event of the transfer of any land from an existing union section to some other section, the arbitrators shall in their award set forth to what other section the transfer shall be made. Award to set out land transferred.

(16) Where the arbitrators determine upon the dissolution of an existing union section, they shall set forth in their award the section or sections to which the land composing the union section shall be attached. In case of dissolution.

(17) Where the arbitrators are of opinion that it would be in the interests of the parties concerned, and that it is practicable so to do, they may form part of the territory of a section into a new section, or form a new union section, and they shall indicate the land of which such section or union section shall be composed, and the remainder of the union section shall be disposed of as herein provided. Reorganizing union section.

Fixing proportions of liabilities.

(18) Where a new union section is formed or an existing union section is altered, the arbitrators shall determine and fix the proportion which the part in each municipality shall be liable to contribute towards the erection of the schoolhouse and the maintenance of the school and other necessary expenses.

Adjustment of claims.

(19) The arbitrators shall value and adjust, in an equitable manner, all rights and claims consequent upon the formation, alteration or dissolution of a union section between the respective municipalities, school sections and ratepayers concerned, and shall also determine in what manner and by what municipality or municipalities or by what parts thereof the same shall be paid and the money to be paid by one part of the municipalities or school sections concerned to the union section so formed or altered, and the disposition of the property of the union section, and any payment by one part to the other, and the right of any ratepayer affected by the award.

School arbitrations, payment of award.

(a) Where the award directs the payment of any sum of money by one municipal corporation to another, the corporation liable may pass a by-law for borrowing the money by the issue and sale of debentures, and it shall not be necessary to obtain the assent of the electors to any such by-law, or to observe the other formalities in relation thereto prescribed by *The Municipal Act*.

Rev. Stat., c. 243.

Debentures to be a charge on public school rates.

(b) The debentures and the money to be raised annually for the payment thereof shall be chargeable only upon the property of ratepayers who are the supporters of public schools.

Term and form of debentures.

(c) The debentures may be for such amount and for such term of years, not exceeding thirty, as the council sees fit, or the council make make the principal and interest payable in annual or other instalments in the manner provided by *The Municipal Act*.

Calling first meeting to elect trustees.

(20) Where a new union section is formed, the inspector authorized under subsection 13 to call the first meeting of the arbitrators shall call the first meeting of electors for the election of trustees, and shall proceed as the clerk of the municipality is directed to proceed in the case of the formation of a new section under this Act.

Not to take effect until Dec. 25th, except for certain purposes.

(21) Such union, alteration or dissolution, except as herein otherwise provided, shall not take effect until the 25th day of December after the award or a certified copy thereof is filed with the clerks of the municipalities concerned, but the trustees may at any time after their election raise money for and

may acquire a school site, erect school buildings and provide school equipment.

(22) Subject to subsections 6, 7 and 8 of section 14 and subsection 27 of this section, a union school section shall not be altered or dissolved for a period of five years after the award has gone into operation, whether the award does or does not change the boundaries of existing sections, but nothing herein shall prevent a municipal council from enlarging the boundaries of a union section as may be deemed expedient, and two-thirds of the ratepayers of a union section may, at the expiration of three years from the date of its formation, petition the municipal council or councils concerned for a reconsideration of the award for the formation of the section, and the proceedings shall be the same as in the case of a petition under subsection 8.

Reconsideration of union school section award.

(a) Where the arbitrators appointed by the councils of the municipalities interested have failed to establish a union school section in accordance with the petition, or where the arbitrators appointed by the council of a county have set aside an award made by the arbitrators appointed by the councils of the local municipalities, the council of each of the local municipalities on the petition of at least five ratepayers resident in the municipality asking for reconsideration of the award after the expiration of two years from the date of the award may appoint arbitrators and take all other necessary proceedings as provided by this section for the establishment of the union school section.

Failure to act on award changing school boundaries, cancellation of award.

(23) Where an award, whether for or against the formation of a new union school section, has not been acted upon, the proceedings mentioned in subsection 1 may be taken at any time after the expiration of three years after the award was made.

New arbitration after three years.

(24) Where an award, whether for or against the formation of a new union school section, has been adjudged illegal or void, the proceedings mentioned in subsections 1 and 8 may be taken at any time after the expiration of the time for appealing against the judgment or decision or after the disposition of any appeal therefrom.

New arbitration when award set aside.

(25) In a provisional judicial district,

(a) a union school section may be formed of any two or more of the following, namely—an organized township or any part thereof, or two or more organized townships or parts thereof, an unorganized township or any part thereof, or two or more unorganized town-

Union school sections in districts.

ships or parts thereof, unsurveyed territory, and a town or village, and the union school section may be altered or dissolved, and in such case the petition of the ratepayers for the part of the union school section not included in an urban municipality or organized township shall be presented to the inspector;

School arbitrators in districts.

- (b) the arbitrators shall be one person appointed by each of the councils of the organized municipalities concerned, the inspector of the district and the judge of the county or district court or some person named by him, and they shall have all the powers of the board of arbitrators mentioned in this section, all of which, so far as applicable, shall apply to the subject matter of this subsection.

Alterations of boundaries not to affect power to form unions.

- (26) The powers conferred by this section may be exercised notwithstanding that the period fixed by subsection 2 of section 14 or by subsection 1 of section 40 has not expired.

Alteration or dissolution when assessment materially altered.

- (27) Where within the period of five years mentioned in subsection 22 the assessment of the union school section is materially altered by reason of any land therein becoming exempt from taxation for public school purposes, the union school section notwithstanding the provisions of that subsection may be altered or dissolved. R.S.O. 1937, c. 357, s. 31.

Appeal relating to union school within a county.

- 33.**—(1) Where the territory which it is proposed to form into a union section, or where the union section which it is proposed to alter or dissolve lies wholly within a county, the board or any five ratepayers in the territory or union section concerned, or the inspector or inspectors, may within one month after the making thereof appeal in writing to the county council from any award made by the arbitrators either for or against the formation, alteration or dissolution of the section or against the neglect or refusal of the township council or councils concerned to appoint arbitrators as provided in section 32.

Appointment of arbitrators by county council.

- (2) On receipt of such appeal, the county council shall have power to appoint not more than three arbitrators, who shall neither be ratepayers in the territory or school section concerned, nor members of the municipal councils concerned, and the arbitrators shall have all the powers of arbitrators appointed under section 32 and the decision of a majority of them shall be final and conclusive.

First meeting of arbitrators.

- (3) The first meeting of the arbitrators shall be called by the county clerk. R.S.O. 1937, c. 357, s. 32.

34.—(1) Where territory which it is proposed to form into a union school section or where the union school section which it is proposed to alter or dissolve comprises an organized or unorganized township or any part thereof, and an urban municipality, or lies in more than one county, or in a district, the board or any five ratepayers in the union school section or territory concerned, or any inspector or inspectors may at any time appeal to the Minister from any award made by arbitrators for or against the formation, alteration or dissolution of the section or against the refusal or neglect of the council or councils concerned to appoint arbitrators as provided in section 32.

Appeals to Minister from school arbitrators in case of union school section.

(2) The Minister may in his discretion alter, determine or confirm the award, or where no award has been made he may appoint not more than three arbitrators who shall have all the powers of arbitrators appointed under section 32, and a decision of a majority of them shall be final and conclusive.

Powers of Minister.

(3) The first meeting of the arbitrators shall be called by the Minister. R.S.O. 1937, c. 357, s. 33.

First meeting of arbitrators.

35. The collectors of each municipality in which a part of a union section is situate shall collect the school rates for that part, and the amount collected from the ratepayers in each part of the union section shall be paid by the respective collectors to the treasurer of the municipality in which such part of the union section is situate, and the treasurer shall pay over the same without any charge or deduction to the board entitled thereto. R.S.O. 1937, c. 357, s. 34.

Collection of rates in union school sections.

36. Where a township is divided for municipal purposes, all school sections which, in consequence of the division, are situate partly in each of the newly formed municipalities shall be deemed union sections until otherwise altered under the provisions of this Act. R.S.O. 1937, c. 357, s. 35.

Union sections as a consequence of a division of township.

37. Every union school section shall, for the purpose of the election of trustees, be deemed one section, and in respect to inspection shall be deemed to be within the municipality in which the schoolhouse is situate, or if there are two or more schoolhouses, then in that municipality within which a schoolhouse is situate which has the largest amount of property assessed for public school purposes. R.S.O. 1937, c. 357, s. 36.

Election of trustees, and inspection of union school sections.

38.—(1) Where a union school section includes an urban municipality divided into wards and part of an adjoining township, the board shall by resolution determine in which ward or wards the electors of the township shall vote for the election of school trustees and on other school questions, and in the

Where township ratepayers to vote when urban municipality divided into wards.

absence of any such resolution, then such part of the township shall be considered for all election purposes as attached to the adjacent ward, and if two or more wards are adjacent, any such elector may vote in either of such wards.

List of voters.

(2) The clerk of the township shall furnish to the clerk of the urban municipality a certified copy of so much of the last revised voters' list of the township as contains the names of electors qualified to vote in that portion of the union school section lying within the township. R.S.O. 1937, c. 357, s. 37.

Where part of a township is annexed to urban municipality.

39. (1) Where part of a township becomes incorporated as or is annexed to and becomes part of an urban municipality, such part shall for all school purposes be deemed to be part of the urban municipality, provided that when the part incorporated or annexed comprises or includes part only of a school section, the municipalities interested, unless determined by agreement after the incorporation or annexation, shall each appoint an arbitrator who, with the judge of the county or district court, shall value and adjust in an equitable manner the rights and claims of all parties thereby affected, and shall determine by which municipality or part thereof the same shall be paid or settled.

Effect of award.

(2) The award shall be final and conclusive, and any money found due, either by agreement or under the award, shall be deemed public school money and shall be payable out of the property taxable for public school purposes in that part of the school section situate within the indebted municipality.

Issue of debentures.

(3) The provisions of section 58 shall not apply to the money required to be paid under the award or agreement, and debentures may be issued to be payable out of the property so taxable without calling a special meeting of the electors and upon the terms and conditions set forth in a by-law of the council of the municipality.

Status of the part of a school section which is not annexed.

(4) Subject to the provisions of this Act as to the alteration of school boundaries and the formation of union school sections, where a part of a township so incorporated or annexed includes part only of a school section, the part remaining shall constitute a school section by the same name as before the incorporation or annexation, and the school corporation shall continue, and the trustees who are in office at the time of the incorporation or annexation shall continue in office until their successors are elected and shall be the board of public school trustees for the part of the section not so included in the urban municipality, and the trustees may resume office or be elected for the section in case the board has been disbanded, and action may be taken by the township council at any time, as provided

by this Act, to readjust the boundaries of the portion of the section that is not included in the urban municipality.

(5) Where urban municipalities become united, all the assets and liabilities of the board of each municipality shall be vested in and assumed by the board of the united municipality. R.S.O. 1937, c. 357, s. 38.

Disposition of assets and liabilities upon union of municipalities.

MAINTENANCE OF UNION SCHOOLS

40.—(1) As often as the assessment of the part of a union section situate in one municipality has increased or decreased to the extent of ten per cent of the amount of its assessment at the date of the last equalization of assessments and has maintained such increased or decreased assessment for the second consecutive year, and, in any case, at the expiration of five years from the last equalization of assessments, the assessors of the municipalities in which a union section is situate shall, before the 1st day of June, meet and determine what proportion of the annual requisition made by the board for school purposes shall be levied upon and collected from the taxable property of the public school supporters of the union section situate in each of the municipalities in which the section lies, provided that upon the recommendation of the assessors, and with the approval of the Minister, an equalization of assessments of a union school section may be made in any year. R.S.O. 1937, c. 357, s. 39 (1); 1941, c. 52, s. 13 (1); 1949, c. 84, s. 3.

Assessors to determine proportion.

(2) Where a police village is a part of a union school section the assessors may equalize the assessment of the police village in the same manner as they would equalize the assessment of a separate municipality. 1941, c. 52, s. 13 (2).

Police village.

(3) Where the assessment of a union school section is materially altered by reason of any land therein becoming exempt from taxation for school purposes, the assessors shall, at their next meeting, revise the equalization.

Assessment altered by exemptions.

(4) The meeting of the assessors shall be called by the assessor of the municipality in which the schoolhouse is situate.

Meeting of assessors.

(5) Where there are more assessors than one, the head of the municipal corporation shall name the assessor who shall act.

By whom.

(6) Notice of the determination shall be given forthwith to the secretary of the board and to the clerk of each municipality.

Notice of determination.

(7) Where the assessors disagree, the inspector in whose inspectorate the school of the union section is situate, and the assessors, shall be arbitrators to determine the matter and

Arbitration where assessors disagree.

report to the secretary of the board and to the clerk of each municipality, on or before the 1st day of July.

When school section lies in two counties.

(8) Where the union school section is composed of parts of two adjoining counties, then on the disagreement of the assessors, the inspector of the township in which the school-house of the section is situate shall act with the assessors.

Duration of decision of assessors.

(9) The decision of a majority of the arbitrators shall be final and conclusive until the next equalization of assessments takes effect.

Reconsideration of award.

(10) The assessors or, in the case of an arbitration, the arbitrators on the request in writing of the inspector or of five ratepayers may within one month after the report of the determination or award to the secretary of the board correct any omission or error in the terms in which the determination or award is expressed.

Costs.

(11) The cost of proceedings under this section, including the fees of assessors and arbitrators, shall be paid by the municipalities in the same proportion as the equalized assessments bear to each other. R.S.O. 1937, c. 357, s. 39 (2-10).

MAINTENANCE OF SCHOOLS IN TOWNSHIP SCHOOL AREAS

Assessors to determine proportion.

41.—(1) Where a township school area consists of more than one municipality or parts thereof, the provisions of section 40 shall apply *mutatis mutandis*, except that, the meeting of the assessors shall be called by the assessor of the municipality having the largest population within the township school area according to the last revised assessment rolls.

Arbitration where assessors disagree.

(2) Where the assessors disagree, the inspector of the township school area and the assessors shall be arbitrators to determine the matter. 1949, c. 84, s. 4.

CONFIRMATION OF BY-LAWS AND AWARDS

Certain by-laws and awards to be valid unless notice to quash given.

42.—(1) A by-law of a municipal council for forming, altering or dissolving a school section, and an award made by arbitrators appointed to consider an appeal from a township council with respect to any matter authorized by this Act shall be valid and binding, notwithstanding any defect in substance or form, or in the manner or time of passing or making the same unless notice of an application to quash the by-law or to set aside the award is given to the township clerk within one month after the publication of the by-law or award, and the same is subsequently quashed or set aside.

What deemed publication of by-law.

(2) The by-law or award shall be deemed to be published when a copy thereof is served upon the secretary of each board of trustees affected thereby.

(3) Arbitrators appointed under any of the provisions of this Act shall make their award within one month from the time when the last arbitrator was appointed, provided, however, that the county or district judge may extend the time for making an award upon application to him by the arbitrators either before or after the time for making the award has expired. R.S.O. 1937, c. 357, s. 40.

ESTABLISHMENT OF SECOND SCHOOLS IN SECTIONS WHERE ROADS IMPASSABLE

43.—(1) Where it appears to the Minister that owing to the condition of the roads or other causes the public school in any school section in any township is inaccessible during certain months of the year to any of the pupils entitled to attend the school, the Minister may require the council to form a new school section or the board to provide a second school in their section, or to provide transportation to and from the school for such pupils.

(2) The Minister may provide that the second school be opened during such months of the year as he may deem necessary and may prescribe the area from which pupils shall have the right to attend the second school.

(3) Any grant in either case from the assisted school fund shall be supplemented by equal amounts from the townships and county councils.

(4) The provisions of subsection 1 of section 6 shall not apply to a school established under this section, but nothing herein shall relieve the pupils attending the second school from attendance at the public school of the school section during those periods of the school year in which the second school is closed, nor relieve the board of the school section from the duty of providing school accommodation for such pupils during such periods. R.S.O. 1937, c. 357, s. 41.

SECTIONS IN UNORGANIZED TOWNSHIPS

44.—(1) Subject to the approval of the Minister, the inspector may form an unorganized township or part of an unorganized township or parts of two or more adjoining unorganized townships into a school section.

(2) The section shall not, in length or breadth, exceed five miles, and subject to this restriction, the boundaries may, with the approval of the Minister, be altered by the inspector from time to time.

Inspector may transfer land to contiguous school section.

(3) The inspector on the petition of any head of a family who has a child attending school and who lives in one school section on land contiguous to another school section may alter the boundaries of the sections so as to transfer such land from one section to the other, but the transfer shall not relieve the land from any taxation required to meet a liability incurred prior to the transfer, nor shall it be made unless in the opinion of the inspector it is more convenient for the child to attend the school in the section to which the transfer is requested.

Election of school trustees.

(4) After the formation of a section any two ratepayers in the section may, by notice posted for at least six clear days in not less than three of the most public places in the section, appoint a time and place for a meeting for the election of three school trustees for the section.

Trustees' powers and obligations.

(5) The trustees elected at such meeting or at any subsequent school meeting of the section shall have the powers and be subject to all the obligations of public school trustees, and may at any time after their election take the proper steps, in accordance with this Act, to raise funds for and purchase a school site and erect school buildings and provide equipment for the school, but in other respects any alteration of the boundaries of a section shall go into operation on the 25th day of December next after the alteration and not before. R.S.O. 1937, c. 357, s. 42.

Sections to be divided into groups.

45.—(1) The inspector shall divide the school sections into groups of three or as near thereto as practicable, and shall notify the secretary of each section of the group to which it belongs, and the grouping may be changed from year to year as the inspector may direct.

Court of revision.

(2) The treasurers of the boards in a group shall constitute a court for the revision of the school assessment rolls of the sections in the group, and for the hearing and determination of any appeals against the same, and the members of the court shall be paid reasonable travelling expenses by their respective boards for their attendance.

When inspector to act as court of revision.

(3) Where, from the sparseness of settlements, it would be inconvenient for a court of revision to meet for the revision of the assessment roll of any section, the inspector, on the request of any board, may assume or may, by writing, appoint some other person to assume the functions of a court of revision for the section on behalf of which the request is made, and all the proceedings of the inspector or other person appointed by him in the matter shall be subject to the provisions of this Act and shall have the same effect as if made in a court of revision constituted under subsection 2. R.S.O. 1937, c. 357, s. 43.

46.—(1) The board shall, annually, at their first meeting, and not later than the 1st day of March in each year, appoint an assessor, who may be one of themselves, to prepare an assessment roll for the section, and the secretary shall submit a certified copy of the roll to the proper court for revision. Annual assessment roll.

(2) Where a new school section is formed after the 1st day of March in any year, the appointment of an assessor shall be made as soon after its formation as possible. Appointment of assessor for new section.

(3) The assessor shall notify every person assessed by leaving a notice containing the particulars of his assessment at his place of residence, or, if a non-resident, by mailing the notice by registered post to his last known address, or, if his address is unknown, by posting up the notice in the post office nearest to the land assessed. Notice of assessment.

(4) The assessor shall be subject to the provisions of *The Assessment Act* with regard to the equitable rating of all taxable property in the section, and shall, before returning his assessment roll to the secretary of the board, attach thereto a certificate signed by him and verified upon oath according to the form prescribed in *The Assessment Act*. R.S.O. 1937, c. 357, s. 44 (1-3). Assessor to make oath. Rev. Stat., c. 24.

(5) The assessor shall return the assessment roll to the secretary not later than the 30th day of September of the year in which the assessment is made. R.S.O. 1937, c. 357, s. 44 (4); 1949, c. 84, s. 5 (1). Return of roll.

(6) A copy of the roll so certified shall be open to inspection by all persons interested at some convenient place in the section, notice whereof signed by the secretary shall be posted up by him in at least three of the most public places in the section, and shall state the place and the time at which the court will hear appeals against the assessment. Appeal against assessment.

(7) The notice shall be posted up for at least three weeks before the time appointed for hearing the appeals, and shall be mailed by registered post to the last known addresses of non-resident ratepayers. Posting up notice.

(8) Subject to subsections 9 and 10 all appeals and the proceedings thereon shall be the same as nearly as may be as in the case of appeals to a court of revision from municipal assessments, and the court of revision shall have the same powers as municipal courts of revision. Manner of appeal.

(9) The notice of appeal shall be given to the treasurer of the board within one month after the delivery, mailing and posting up of the notice provided for by subsection 3. Notice of appeal.

Court clerk.

(10) The court may appoint a competent person to be its clerk for each section or one for all the sections.

School census.

(11) The assessor, when making his assessment, shall enter in a book to be provided by the board the name, age and residence of every child between the ages of five and twenty-one years resident in the section and the name and residence of such child's parents or guardian, and shall, with the assessment roll, return the book to the secretary, and the secretary shall include a copy of the particulars entered in the book in his annual report to the inspector. R.S.O. 1937, c. 357, s. 44 (5-8).

Appeals.

(12) An appeal to the district judge shall lie at the instance of the board, the assessor or any person assessed, not only against a decision of the court of revision on an appeal to the said court but also against any omission, neglect or refusal of the said court to hear or decide an appeal, and an appeal shall lie to the Ontario Municipal Board from a decision of the district judge or of the court of revision where no appeal is taken to the district judge, and the provisions of sections 72 to 83, except section 78, of *The Assessment Act* shall apply *mutatis mutandis* to every such appeal. 1949, c. 84, s. 5 (2).

Rev. Stat. c. 24.

Expenses of judge.

(13) The district judge shall be entitled to receive from the board as his expenses for holding court for the purpose of hearing appeals from the court of revision under this section, except where court is held in the district town, the same sums as he is allowed for holding courts for revising voters' lists. 1941, c. 52, s. 14 (1), *part*.

Confirmed roll binding.

(14) Subject to subsection 12, the roll, as finally passed and, signed by the chairman of the court of revision, shall be binding upon the trustees and ratepayers of the section until the roll for the succeeding year is passed and signed as aforesaid. R.S.O. 1937, c. 357, s. 44 (9); 1941, c. 52, s. 14 (2).

Assessment of portion of unorganized township forming with organized municipality, a union school section.

47.—(1) Any part of an unorganized township which forms part of a union section, the remainder of which is an organized municipality or part of an organized municipality, shall for public school purposes be deemed to be annexed to the organized municipality, and the officers thereof shall make all assessments and collect all taxes and do all such other acts and perform all such duties and be subject to the same liabilities with respect to the part of the unorganized township forming part of the union section as with respect to any part thereof which lies within the organized municipality.

Where joined with a town in a judicial district.

(2) Where a union section is composed of a town in a provisional judicial district and of a portion of any other organized municipality and any part of an unorganized township, the part of the unorganized township included in the school sec-

tion shall, for public school purposes, be deemed to be annexed to the town and form part thereof, and the officers of the town shall make any assessments and collect all taxes and do all such other acts and perform such duties and be subject to the same liabilities with respect to the part of the unorganized township forming part of the union section as with respect to the town.

(3) Any assessments to be made and taxes to be collected under this section with respect to part of an unorganized township shall include as part thereof the proper proportion of the salaries and expenses of the officers making the assessments and collecting the taxes, having regard to the ratio which the assessment in that part of the unorganized township bears to the total assessment of the union section. R.S.O. 1937, c. 357, s. 45.

Taxes to include expense of assessment and collection.

48.—(1) In unorganized townships, the board of a section may issue debentures for the purchase of a school site and the erection of a schoolhouse, for such amounts and for such term of years, not exceeding thirty, as the board sees fit, or the board may direct that the principal and interest shall be repayable by annual or other instalments in the manner provided by *The Municipal Act*, provided that the issue of the debentures has been sanctioned at a special meeting of the ratepayers of the section.

Issuing debentures for school sites and houses.
Rev. Stat., c. 243.

(2) The debentures shall be signed by the trustees and shall be sealed with the corporate seal of the board, and shall be a charge upon the taxable property of the public school supporters of the section. R.S.O. 1937, c. 357, s. 46.

Signing and sealing debentures.

49.—(1) The board may appoint some competent person who may be a member thereof to collect the rates imposed by them upon the ratepayers of their section, or the sums which the inhabitants or others may have subscribed, and may pay to the collector at the rate of not less than five and not more than ten per cent on the moneys collected by him, and every collector shall give security satisfactory to the board, and the security shall be lodged for safe keeping with the inspector.

Appointment and duties of school collector.

(2) Every collector shall have the same powers in collecting the school rate or subscriptions, and shall be under the same liabilities and obligations and proceed in the same manner in the section or township, as a township collector in collecting rates in his township as provided by *The Assessment Act*. R.S.O. 1937, c. 357, s. 47 (1, 2).

Powers and liabilities of school collector.
Rev. Stat., c. 24.

(3) The collector shall, on or before the 8th day of April in the year following the year in which a school rate becomes due and payable, make a return to the sheriff of the county or district showing each lot or parcel assessed upon which the

Return of arrears of taxes in unorganized territory.

school rates have not been fully paid, the name of the person assessed as owner or occupant and the amount of school rates chargeable against the lot or parcel and in arrear at the date of the return with the year for which the rates so in arrear were imposed. R.S.O. 1937, c. 357, s. 47 (3); 1949, c. 84, s.6.

Entry in
sheriff's
book.

(4) The sheriff shall enter in a book to be kept by him for that purpose the particulars furnished by the collector.

Payments
of arrears
thereafter.

(5) The collector shall not receive any payment on account of school rates so in arrear after the expiration of two years from the date when the rates became due, but in the case of payments made before the expiration of that period, the collector shall forthwith notify the sheriff thereof and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him.

When
arrears to
be paid to
sheriff.

(6) After the expiration of such period, all such arrears shall be payable to the sheriff, who shall enter all payments in the book kept by him and shall return the amount paid to the treasurer of the board.

Sale of land
for arrears.

(7) When it appears from the entries in the book kept by the sheriff that any school rate is in arrear for three years from the 31st day of December in the year in which the rate became payable, the sheriff shall proceed to collect the same by the sale of the lands assessed, and the procedure in relation to such sale and the provisions applicable to purchase by the municipality and to the redemption of lands thereafter and to deeds to be given by the sheriff to tax purchasers shall be the same as nearly as may be as in the case of the sale of lands for arrears of taxes in organized municipalities, and the board may in such cases exercise the power of purchase conferred upon a municipality. R.S.O. 1937, c. 357, s. 47 (4-7).

SCHOOLS IN UNSURVEYED DISTRICTS

Schools in
unsurveyed
districts.

50.—(1) In any part of Ontario not surveyed into townships, five of the inhabitants thereof who are twenty-one years of age may call a public meeting of such inhabitants, by giving such notice of the meeting as the public school inspector shall direct.

Election of
trustees.

(2) The meeting may elect three of the inhabitants to serve as public school trustees, and the trustees so elected shall have all the powers of trustees in unorganized townships, and shall in all other respects be subject to the provisions of this Act.

Notice to
the Minister
of Educa-
tion.

(3) On receipt of a report from the inspector that a public school has been established and suitable accommodation and equipment provided for public school purposes, the Minister may pay over to the board, out of the appropriation made by

the Legislature for public schools, such sum of money for the maintenance of the school as may be approved by the Lieutenant-Governor in Council. R.S.O. 1937, c. 357, s. 48.

51. In addition to any other remedy possessed by public school trustees in unorganized townships or in unsurveyed territory, for the recovery of rates imposed under the authority of this Act, the trustees, with the approval of the inspector in writing signed by him, may bring an action in any court of competent jurisdiction for the recovery of any rates in arrear against the person assessed therefor. R.S.O. 1937, c. 357, s. 49.

Collection of rates in unorganized areas by action.

EXEMPTIONS

52. No by-law of a municipal council passed after the 14th day of April, 1892, for exempting any part of the rateable property in the municipality from taxation in whole or in part shall be held or construed to exempt the property from school rates of any kind. R.S.O. 1937, c. 357, s. 50.

Exemption by-laws not to include school taxes.

RETURN OF ANNUAL CENSUS

53.—(1) The clerk of every county shall make a return to the Minister showing the population of each local municipality within the county, and the clerk of every city and of every separated town shall make a return showing the population of the city or town, as shown by their respective assessment rolls for the previous years, such returns to be made on or before the 1st day of April in each year.

Clerk to make returns of population.

(2) The clerk of every county shall furnish the inspector forthwith on demand with such school statistics in regard to assessments as the Minister may direct. R.S.O. 1937, c. 357, s. 51.

Clerk to furnish inspector with school statistics.

54.—(1) The clerk of every township shall give to the inspector when requested by him, a statement of the assessed value of each school section as shown by the last revised assessment roll, and at the request of any board shall furnish the board with a statement showing the several parcels or lots of land composing the school section, the assessment of each parcel or lot and the amount of taxes entered on the collector's roll against each parcel or lot, and the cost of preparing this statement shall be paid by the board applying for the same. R.S.O. 1937, c. 357, s. 52 (1); 1950, c. 65, s. 4.

Clerk to give copy of assessment to inspector.

(2) The clerk of every township in which a section is situate which is wholly or in part united to an urban municipality shall give to the clerk of the urban municipality such information as may be required regarding population and

Statement to be furnished to urban municipality by clerk of township.

assessment in connection with the section. R.S.O. 1937, c. 357, s. 52 (2).

APPORTIONMENT OF INVESTMENTS BY TOWNSHIPS

Apportionment of school money by township councils.

55. The council of every township may by by-law apportion among the school sections in the township the principal or interest of any investments held by the corporation for public school purposes according to the salaries paid to the teachers engaged by the respective boards during the past year, or according to the average attendance of pupils in each section during the same period. R.S.O. 1937, c. 357, s. 53.

BORROWING POWERS

In Urban Municipalities

Debentures for school purposes.

56.—(1) The council of an urban municipality, on the application of the board, may pass a by-law for borrowing money by the issue and sale of debentures for any one or more of the following purposes,

- (a) the purchase or enlargement of a school site or building;
- (b) the purchase or enlargement of sites and the erection thereon of buildings or additions or alterations there-to for the administrative or office purposes of the board;
- (c) obtaining and conveying, from beyond the school premises if necessary, a supply of water;
- (d) the erection of a schoolhouse, drill hall, gymnasium or teacher's residence, or any addition to the same or any of them;
- (e) repairs or improvements of the school property;
- (f) the purchase of furniture, furnishings, school apparatus, a school library and other equipment;
- (g) the purchase of a bus or buses or other vehicles for the transportation of pupils,

and it shall not be necessary that the by-law shall be submitted to the electors for their assent. R.S.O. 1937, c. 357, s. 54 (1); 1948, c. 73, s. 1.

Chargeable only on property of public school supporters.
Submission of question to vote of electors.

(2) The debentures and the money to be raised annually for payment thereof shall be chargeable only upon the property of ratepayers who are supporters of public schools.

(3) Where the council refuses to pass such a by-law the question shall be submitted by the council, if requested by the board, to the vote of the electors qualified to vote under

The Municipal Act on money by-laws and who are supporters of public schools, in the manner therein provided, and on the assent of the electors being obtained the council shall pass the by-law and issue the debentures, and it shall not be necessary that the by-law shall be submitted to the electors for their assent. Rev. Stat., c. 243.

(4) The debentures may be for such amount and for such term of years, not exceeding thirty, as the council sees fit, or the council may make the principal and interest payable by annual or other instalments in the manner provided in *The Municipal Act*. Form and term of debentures. Rev. Stat., c. 243.

(5) The application for the issue of debentures by the board of an urban municipality to which part of an adjoining township is attached shall be subject to the provisions of this section, and where a by-law is submitted to the electors as provided in subsection 3, the vote shall be taken in the same manner as nearly as may be as at an election in a union school section consisting of an urban municipality and a portion of a township, but only those electors shall vote who are public school supporters qualified to vote on money by-laws under *The Municipal Act*. Where application is made by urban board and part of township attached.

(6) Where the amount provided by a by-law passed under this section proves insufficient for the purposes for which the by-law was passed the council may pass another by-law for borrowing the remainder of the money required for such purposes, and all the provisions of this section shall apply to the application for the issue of debentures for the amount required, and to the passing of a by-law for that purpose. R.S.O. 1937, c. 357, s. 54 (2-6). Where insufficient money borrowed.

In Township Under Board of Education

57. The council of a township over which a board of education has jurisdiction, upon the application of the board of education, shall have the same powers to pass by-laws for borrowing money by the issue and sale of debentures as are conferred on the council of an urban municipality by subsection 1 of section 56, and the provisions of subsections 2, 3, 4 and 6 of section 56 shall, *mutatis mutandis*, apply. 1947, c. 88, s. 2. Power to issue debentures where board of education has jurisdiction.

In Rural Sections

58.—(1) On the application of a rural school board for the issue of debentures for any of the purposes mentioned in section 56 the council of the township shall pass a by-law therefor, and shall forthwith issue debentures to be payable out of the taxable property of the public school supporters Township school debentures.

of the section in such annual amounts as they may deem expedient, provided always that the proposal for the loan has been submitted to and sanctioned at a special meeting of the ratepayers called for the purpose.

To what
council ap-
plications
for loans to
be made.

(2) The application for a loan for any of such purposes shall be made by the board of a union school section to the council of the municipality within which the schoolhouse or school site of the section is situate, and all debentures for the payment of the loan shall be issued by the corporation of that municipality.

Sanction by
ratepayers.

(3) The application must be sanctioned by the ratepayers of the school section in the manner set forth in subsection 1.

Application
of proceeds
of debentures.

(4) Where the by-law authorizes the issue of debentures for the erection of buildings such proportion of the proceeds of the debentures as may be necessary may be applied for the purchase or enlargement of a school site upon which the buildings are to be erected.

Municipi-
pality form-
ing part
of union
section to
pay in
proportion.

(5) The corporation or corporations of any other municipality or municipalities forming, or any part of which forms, part of the union section shall, on the requisition of the clerk of the municipality by which the debentures were issued, pay its or their share of the loan, including interest as it comes due according to its or their liability as determined by section 40.

How
payable.

(6) The proportion of the moneys payable by the corporation of each of the municipalities shall be payable out of the taxable property of the public school supporters therein lying within the section.

Expenses of
publishing
by-laws.

(7) The expenses of preparing and publishing any by-laws or debentures, and all other expenses incident thereto, shall be paid by the section on whose behalf the debentures were issued, and the amount of the expenses may be deducted from any school rates collected by the municipal council for the section.

Liability for
loan where
boundaries
altered.

(8) Notwithstanding any alterations which may be made in the boundaries of a section the taxable property of the public school supporters situate therein at the time when the loan was effected shall continue to be liable for the rate which may be levied for the repayment of the loan.

Lands
included in
section by
reason of
alteration in
boundaries
to be sub-
ject to
taxation.

(9) When upon alteration of boundaries of a school section lands are included therein which are taxable property of public school supporters, such lands shall be subject to taxation for school purposes, including debenture rates, of the school section to which they are attached in the same manner and to the same extent as all other taxable property of public

school supporters in the school section; provided that if the lands so attached continue liable for debenture rates for the purposes of the school section from which they are detached, they shall during the continuance of such liability be subject only to taxation for school debenture rates in the school section to which they are attached, to the amount by which such last-mentioned debenture rates exceeds the amount of the debenture rates for which they have continued liable. R.S.O. 1937, c. 357, s. 55.

59.—(1) A rural school board may require the council to raise by one yearly rate such sums as may be necessary for the purchase or enlargement of a school site, or the erection of a schoolhouse, or an addition thereto, or a teacher's residence. School property may be paid for by one special rate.

(2) A municipal council shall not levy or collect during any one year more than one school rate except for one or more of the purposes mentioned in subsection 1. R.S.O. 1937, c. 357, s. 56. Council not to levy more than one rate except in certain cases.

60. A rural school board may, with the consent of the ratepayers first obtained at a special meeting called for that purpose, by resolution authorize the borrowing from any municipal corporation of any surplus moneys derived from the Ontario Municipalities Fund, or from any other source, for such term and at such rate of interest as may be set forth in the resolution for any or more of the following purposes: the purchase or enlargement of a school site, the erection of a schoolhouse, drill hall, gymnasium or teacher's residence, or any addition to the same or any of them, and any sum so borrowed shall be applied only to the purpose for which it was borrowed. R.S.O. 1937, c. 357, s. 57. School corporations may borrow surplus moneys.

RATES

61.—(1) The council of every local municipality shall levy and collect upon the taxable property of the public school supporters of the municipality, or of the sections in the case of rural schools, in the manner provided in this Act and in *The Municipal Act* and *The Assessment Act*, such sums as may be required by the board for school purposes, and shall pay them to the treasurer of the board from time to time as may be required by the board on the warrant of the proper inspector. Councils to levy sums required by trustees. Rev. Stat., c. 243, 24.

(2) In the case of a union school section formed of parts of townships, the sums levied and collected from the ratepayers by township councils shall be levied and collected by the several councils out of the taxable property of the public school supporters of the union school section, each in the Rates in union sections.

proportion which such taxable property within its jurisdiction bears to the taxable property of public school supporters in the whole union section.

And to
account
for same.

(3) Every municipal council shall annually account for all moneys collected for public school purposes, including any sum which has been collected in excess of the sums disbursed, on account of the public school or schools within the municipality or section, and shall pay over the same to the school board of the municipality or of the section. R.S.O. 1937, c. 357, s. 58.

Additional
grants for
school
purposes.

62.—(1) In addition to any sums which the council of a municipality may be bound to levy and collect under any section of this Act, the council of any municipality may make grants as it may deem expedient for the purposes of public schools within the municipality, and may assess, levy and collect the sums required to pay the grants by general rate upon all taxable property of public school supporters in the municipality.

Purposes
for which
aid may be
granted.

(2) The purposes for which the rate mentioned in subsection 1 may be raised shall include, but shall not be limited to, the establishment and maintenance of school corporations, aiding new or weak schools or continuation schools or fifth classes in the municipality, or the supplementing of teachers' salaries or retiring allowances. R.S.O. 1937, c. 357, s. 59.

Correction
of errors in
collection
of rates in
previous
years.

63. Every municipal council shall correct any errors or omissions that may have been made within the three years next preceding such correction in the collection of any school rate duly imposed or intended so to be to the end that no property shall escape from or be compelled to pay more than its proper proportion of the rate. R.S.O. 1937, c. 357, s. 60.

Levying
school rate
where there
is no public
school in a
municipality.

64.—(1) Where in any municipality situate in a county there are persons entered on the assessment roll as public school supporters and there is no public school to which public school rates levied by the council of the municipality can be applied, there shall be assessed, levied and collected annually on the property of all persons assessed as public school supporters in the municipality, a rate equal to the average public school rate levied in the county for boards of public school trustees of villages, and of towns not separated from the county and of school sections, and the moneys so raised shall be set apart or invested by the council of the municipality in the manner provided by section 329 of *The Municipal Act*.

Rev. Stat.,
c. 243.

Rates in
urban munici-
palities.

(2) In urban municipalities situate in unorganized territory where a like condition exists the rates to be so levied on public school supporters shall be equal to those levied in the nearest urban municipality.

(3) In rural school sections in townships situate in un-organized territory where a like condition exists the rates to be so levied on public school supporters shall be equal to the average rate levied on public school supporters in the other rural school sections in the same township in which there is a public school, or if there be none then equal to the rate levied on public school supporters in the nearest rural school section outside the township in which there is a public school. R.S.O. 1937, c. 357, s. 61.

RURAL SCHOOL SECTIONS

65.—(1) Where not already so subdivided the municipal council of every township shall subdivide the township into school sections so that every part of the township shall be included in some section, and shall distinguish each section by a number.

(2) Where the land or property of any person is situate within the limits of two or more sections the parts so situate shall be assessed and returned upon the assessment roll separately according to the divisions of the school sections within the limits of which the same are situate.

(3) No section shall be formed which contains less than fifty children between the ages of five and twenty-one years whose parents or guardians are residents of the proposed section unless the proposed section is more than four square miles in area, provided that a smaller area, although it contains a less number of such children, may be formed into a school section where, because of lakes or other physical conditions, a section convenient for school purposes containing an area of more than four square miles cannot be formed.

(4) Every township clerk shall prepare in triplicate a school map of the township showing the divisions of the township into school sections and parts of union school sections, and shall furnish one copy to the county clerk, for the use of the county council, one to the county or district school inspector and retain the other in his office for the use of the township council, and shall furnish annually, on or before the 1st day of December, to the local inspector information in writing of the acreage, the assessed value, the rate for school purposes and the school population between the ages of five and twenty-one years of each section or part of a union section within the township. R.S.O. 1937, c. 357, s. 62.

66.—(1) Where, in the opinion of the Minister, it is desirable to establish and maintain a public school on lands held by the Crown in right of Canada or Ontario, or on any lands which are exempt from taxation for school purposes, the

Minister may designate any portion of such lands as a rural school section, and may appoint as members of the board such persons as he may deem proper. 1947, c. 88, s. 3; 1948, c. 73, s. 2.

Powers of
board

(2) The board so appointed shall be a body corporate by the name indicated in the order establishing the rural school section, and shall have all the authority of a board of public school trustees for the purposes of this Act. 1947, c. 88, s.3.

RURAL SCHOOL TRUSTEES

Trustees to
be corpora-
tion.

67. (1) The trustees of every rural school section shall be a corporation by the name of "The Public School Board of Section No. of the Township of in the County of" (*inserting the number of the section and the names of the township and county*).

Trustees,
term of
office.

(2) For every rural school section there shall be three trustees, each of whom, in rotation, shall, except as herein otherwise provided, hold office for three years and until his successor has been elected.

Trustees,
qualifica-
tion.

(3) The persons qualified to be elected trustees shall be any person who is a British subject, of the full age of twenty-one years, not disqualified under this Act and who is,

- (a) a resident ratepayer whose taxes for school purposes are neither overdue nor unpaid; or
- (b) the husband, wife, son or daughter of a person assessed as the owner of a farm if resident on the farm with the assessed owner, provided that all taxes for school purposes payable with respect to the farm are neither overdue nor unpaid,

and no person not so qualified shall be elected or competent to act as trustee.

Inter-
pretation.

(4) For the purposes of subsection 3, "farm" means not less than twenty acres of land in the actual occupation of the owner thereof. R.S.O. 1937, c. 357, s. 63.

Elections
in new
sections.

68. (1) At the first election in every new section the first trustee elected shall hold office for three years, the second for two years, and the third for one year, or in case of a poll being taken the trustee receiving the highest number of votes shall hold office for three years, the trustee receiving the number of votes next to the highest shall hold office for two years, and the other trustee shall hold office for one year.

Casting
vote

(2) Where two or more trustees have received an equal number of votes the chairman shall give a casting vote or votes.

(3) The first year in each case shall be deemed to commence at the date of such first election and extend till the date fixed by this Act for holding the second annual meeting of rate-payers thereafter. R.S.O. 1937, c. 357, s. 64.

When first year to be deemed to commence and end.

69. A school corporation shall not cease to exist by reason of the want of trustees, but if there are no trustees, any two electors of the section, or the inspector, by giving six days' notice, to be posted up in at least three of the most public places of the section, may call a meeting of the electors, who shall elect three trustees in the manner prescribed by this Act. R.S.O. 1937, c. 357, s. 65.

Corporation not to cease by want of trustees.

70.—(1) Where the electors of a section for two years neglect or refuse to elect trustees, the council of the township may appoint trustees for the section, one for three years, one for two years, and the third for one year, to be reckoned from the date upon which the last election should have been had by the electors, and may fill the vacancies on the board so long as the electors neglect to do so.

Council may appoint trustees when no election.

(2) Instead of appointing trustees the council may, by law, declare the section dissolved and attach the same, in such proportions as they may deem expedient, to adjoining sections, and the assets of the section shall be disposed of as may be determined by the judge of the county or district court of the county or district in which the school is situate, the inspector, and one other person to be named by them, whose direction or the direction of a majority of them as to the disposition of the assets shall be carried out by the council. R.S.O. 1937, c. 357, s. 66.

Dissolution of school section on non-election of trustees.

MEETINGS OF SCHOOL ELECTORS

71.—(1) A meeting of the electors of every section for the purpose among other things of electing trustees shall be held annually on the last Wednesday in December, or if that day is a holiday, on the next day following, commencing at the hour of ten o'clock in the forenoon, or if the board by resolution so directs, at the hour of one o'clock or eight o'clock in the afternoon, at such place as the board shall by resolution determine, or in the absence of such resolution, at the schoolhouse of the section.

Annual meeting, when held.

(2) Where the annual meeting of electors of a rural section cannot conveniently be held as provided for in subsection 1, the electors at a regular meeting or at a special meeting called for that purpose, may pass a resolution naming another day for the holding of the annual meeting, and upon receiving the Minister's approval, the annual meeting shall be held on that

Annual meeting in rural section.

day in each year thereafter, unless with the Minister's approval some other day is similarly named; provided that no subsequent alteration of the day for holding the annual meeting may be made until at least three annual meetings have been held on the day previously named and approved.

Proceedings on formation of new school section.

(3) Where a new section is formed the clerk shall fix the place for the first meeting and shall call the same for the fourth Wednesday after the time for appealing against the by-law forming the section has expired, or after the final disposition of the appeal, if any, by causing notices to be posted up in three of the most public places in the new section at least six clear days before the date when the meeting is to be held.

Time and conduct of meeting.

(4) The meeting shall be held at the same hour and conducted in the same manner as the annual meeting in organized sections.

Procedure after election of trustees in new section.

(5) At any time after the election of trustees in a new school section proceedings may be taken under the provisions of this Act to raise money for and acquire a school site, erect school buildings and provide school equipment. R.S.O. 1937, c. 357, s. 67 (1-5).

Meeting to be called in default of first or annual meeting.

(6) When any school meeting has not been held on the proper date the inspector, or any two electors in the section, may call a meeting of the electors by giving six clear days' notice, to be posted up in at least three of the most public places in the school section, and the meeting so called shall possess all the powers and perform all the duties of the meeting in the place of which it is called. R.S.O. 1937, c. 357, s. 67 (6); 1938, c. 35, s. 30.

Organization of meeting.

(7) The electors present at a school meeting shall elect one of their number as chairman, and shall also appoint a secretary who shall record the minutes of the meeting and perform such other duties as are required of him by this Act.

Chairman, duties of.

(8) The chairman shall submit all motions to the meeting in the manner desired by the majority and shall be entitled to vote on any motion, and in case of a tie the motion shall be declared to be negatived, and he shall decide all questions of order, subject to an appeal to the meeting.

Order of business.

(9) The business of every school meeting may be conducted in the following order,

- (a) receiving and disposing of the annual report of the trustees;
- (b) receiving and disposing of the annual report of the auditor;

- (c) electing an auditor for the ensuing year;
- (d) miscellaneous business;
- (e) instructing the trustees by resolution, if deemed expedient, to insure the school buildings and furniture;
- (f) the election of trustees.

(10) Where a special meeting of the electors of a school section is called, the meeting shall be held at the hour of ten o'clock in the forenoon, or, if the board by resolution so directs, at the hour of one o'clock in the afternoon or eight o'clock in the afternoon, at such place as the board shall by resolution determine, or, in the absence of such resolution, at the school-house of the section. R.S.O. 1937, c. 357, s. 67 (7-10). Special meeting, when to be held.

VOTING ON ELECTIONS OR SCHOOL QUESTIONS IN A RURAL SECTION

72.—(1) Every person who is a ratepayer in a rural school section, and every other person who is qualified to vote at municipal elections and who resides in the rural section and is not a supporter of separate schools, shall be entitled to vote at an election of trustees in the section and on every question submitted to a school meeting except a question involving expenditure of money on capital account. R.S.O. 1937, c. 357, s. 68 (1). Qualification of voters.

(2) On a question involving the expenditure of money on capital account only such persons as are qualified to vote on money by-laws under *The Municipal Act* and are public school supporters shall be entitled to vote in the school section. 1950, c. 65, s. 5. Capital expenditure.
Rev. Stat., c. 243.

(3) A person who is not a British subject, or who is a citizen or subject of any foreign country shall not be entitled to vote at an election of school trustees in a rural school section or upon any school question. R.S.O. 1937, c. 357, s. 68 (3). Persons not British subjects excluded.

73.—(1) A poll may be demanded by any two electors at a meeting for the election of trustees or for the settlement of any school question in a rural section, and the poll shall be granted by the chairman forthwith if demanded within ten minutes after the result of a vote has been declared by the chairman. R.S.O. 1937, c. 357, s. 69 (1). Granting poll.

(2) Where a poll is granted the secretary shall enter in a poll book the name and residence of each elector offering to vote within the time prescribed and shall furnish him, at the time of voting, with a ballot paper on the back of which he has placed his initials, and shall provide a pencil for the marking of the ballot paper. Entry in poll book.

Form of
ballot
paper.

(3) Ballot papers shall be pieces of plain white paper of uniform size.

Marking
of ballot
paper.

(4) A voter shall mark his ballot,

(a) in the election of a trustee, by marking the name of the trustee thereon; and

(b) on a question, by marking the word "for" or "against" thereon.

Manner of
voting.

(5) Each voter shall mark his ballot paper in a compartment or other place provided for the purpose which is so arranged that the manner in which he marks his ballot is not visible to other persons and shall thereupon fold it so that the initials of the secretary can be seen without opening it and hand it to the secretary who shall, without unfolding it, ascertain that his initials appear upon it and shall then in full view of all present, including the voter, place the ballot in a ballot box or other suitable container which has been placed and is kept upon a table for the purpose.

Appoint-
ment of
scrutineer.

(6) Every candidate may appoint a person to act as his scrutineer during the election. 1946, c. 82, s. 3 (1), *part.*

When voter
is objected
to.

(7) If objection is made to the right of any person to vote, the chairman, if the name of the person appears on the assessment roll or on Part I or Part II of the voters' list, shall require the person, where he votes as a ratepayer, to make the following declaration:

- (1) I, *A.B.*, declare and affirm that I am an assessed ratepayer, in school section No.;
- (2) That I am of the full age of twenty-one years;
- (3) That I am a natural born (*or* naturalized) subject of His Majesty; and am not a citizen or subject of any foreign country;
- (4) That I am a supporter of the public school in said school section No.;
- (5) That I have a right to vote at this election,

or shall require the person, where he votes as an elector, who is not a ratepayer, to make the following declaration:

- (1) I, *A.B.*, declare and affirm that I am entered on the assessment roll (*or* voters' list) of this municipality as entitled to vote at municipal elections;
- (2) That I am of the full age of twenty-one years;
- (3) That I am a natural born (*or* naturalized) subject of His Majesty; and am not a citizen or subject of any foreign country;
- (4) That I am not a supporter of any separate school;
- (5) That I have been a resident of this school section for the six months last past;
- (6) That I have a right to vote at this election,

and after making such declaration the person making it shall be entitled to vote.

(8) The poll shall not close before noon, but may close at any time thereafter when a full hour elapses without any vote being polled, and shall not be kept open later than four o'clock in the afternoon. When poll shall close.

(9) When the meeting is held in the evening the electors may decide, by resolution, that the poll shall be conducted forthwith or at ten o'clock on the following morning, and, if conducted in the evening, the poll shall close after ten minutes have elapsed without any vote being recorded. Polling at evening meeting.

(10) When the poll is closed, the chairman and secretary shall count the votes polled for the respective candidates or affirmatively and negatively upon the question submitted, and if there is a tie the chairman shall give a second or casting vote. Counting votes; casting vote.

(11) In the case of an election of trustees the chairman shall then declare the candidate elected for whom the highest number of votes has been polled, and in case of a vote on a school question he shall declare the same adopted or negated as the majority of votes is in favour of or against the same. Declaration of result.

(12) A correct copy of the minutes of every school meeting and a copy of the poll book, where a poll has been taken, all of which shall be signed by the chairman and secretary, shall be forthwith transmitted by the chairman to the inspector. Copy of minutes and of poll book for inspector.
R.S.O. 1937, c. 357, s. 69 (4-9).

(13) A statement of the result of the vote shall be certified by the chairman and secretary and in the case of an election of trustees the statement shall be signed by any scrutineers present at the counting of the ballots and a copy thereof shall be delivered or mailed to each candidate. 1946, c. 82, s. 3 (1), *part*. Statement of result of poll.

(14) Every person upon receiving notice that he has been elected trustee shall be deemed to have accepted the office unless a notice to the contrary is delivered by him to the chairman within twenty days after the election. 1946, c. 82, s. 3 (2). Acceptance of office of trustee.

(15) Where complaint is made to the inspector by an elector that the proceedings for the election of a trustee, or that the proceedings or any part thereof of a school meeting have not been in conformity with this Act, the inspector shall investigate the complaint and confirm the election or proceedings if found to be in substantial accordance with this Act, or set the same aside if found not to be in substantial accordance therewith, and in the latter event he shall appoint a time and place for a new election or for the reconsideration of the school question, but no complaint shall be entertained unless made in Complaints as to elections.

writing to the inspector within twenty days after the holding of the election or meeting, and it shall not be incumbent upon the inspector to set aside such election or any proceeding for want of formal compliance with the provisions of this Act if he is satisfied that the result of such election or proceeding has not been affected thereby.

Clerk to supply list of school voters.

(16) The clerk of the municipality shall supply a list of the persons qualified to vote when required by the board or when required by the inspector in the case of an investigation with regard to the election of a trustee or the proceedings of a school meeting. R.S.O. 1937, c. 357, s. 69 (11, 12).

URBAN SCHOOL BOARDS

Board to be a corporation.

74.—(1) Every board in urban municipalities shall be a corporation by the name of "The.....Public School Board", prefixing to the words "Public School Board" the name of the municipality for which the board is elected.

Who may be elected trustees.

(2) Any ratepayer in an urban municipality who is a British subject, and who resides in the municipality, or in the case of a city or town, within one mile from the boundaries of the municipality, and who is of the full age of twenty-one years and not disqualified, may be elected a public school trustee and every trustee, except as otherwise provided herein, shall continue in office until his successor has been elected and a new board organized, but no person who is not a British subject shall be elected or competent to act as trustee.

Qualifications of husband or wife of ratepayer.

(3) The husband or wife of a person assessed as actual owner or tenant of land in the municipality for an amount sufficient to entitle him or her to vote at municipal elections shall be deemed a ratepayer within the meaning of subsection 2, but shall not be eligible for election or to sit or vote as a member of the board while his or her wife or husband is a member of the board.

Taxes.

(4) A person shall not be eligible to be elected as a trustee or to sit or vote as a member of the board if any portion of the taxes levied for school purposes for the preceding year or years on the property in respect of which the person qualifies, is overdue or unpaid at the time of the nomination; provided that the provisions of this subsection shall not apply where the person is a tenant of the property and the taxes in respect thereof are, under the terms of the tenancy, payable by the owner of the property. R.S.O. 1937, c. 357, s. 70.

First election of trustees.

75.—(1) Where an unincorporated village becomes incorporated or a village or town changes its corporate status, or a portion of a township or portions of two or more townships

is or are incorporated as a town, the board having jurisdiction over the school property situate within the village or town before its incorporation or before the change of its corporate status shall exercise all the powers conferred by this Act upon the board of an urban municipality until a new election of trustees is held.

(2) Where an unincorporated village becomes incorporated, the board shall call a meeting of the electors within one month after the date of the incorporation for the election of a new board. First meeting in newly incorporated village.

(3) In calling the meeting, the provisions of section 80 shall be complied with so far as they are applicable. R.S.O. 1937, c. 357, s. 71. Procedure for calling meeting.

(NOTE.—*As to elections in a union school section, including an urban municipality and a portion of a township, see section 38.*)

76.—(1) For every ward into which an urban municipality is divided there shall be two trustees, each of whom shall, except as otherwise provided in this Act, continue in office for two years and until his successor has been elected and the new board organized. Trustees in city, etc., divided into wards.

(2) After the first election of trustees in any ward, or when from any cause the two trustees in any ward are elected simultaneously, one of them, to be determined by lot at the first meeting of the board after their election, which determination shall be entered upon the minutes, shall hold office for one year and the other for two years, and after such first or simultaneous election one trustee shall be elected annually for each ward. R.S.O. 1937, c. 357, s. 72. Retirement by rotation

77.—(1) The municipal council of a city having a population of over 100,000 and in which there is a board of public school trustees, may submit to the electors assessed as public school supporters in the municipality in the manner provided by *The Municipal Act*, a question in the following form: Election of public school trustees by general vote. Rev. Stat., c. 243.

Are you in favour of the election of members	
of the public school board by general vote	YES
of the electors of the city instead of by	NO
wards?	

and if the majority of the votes on the question are in the affirmative, at the first annual election held thereafter nine trustees shall be elected and the three of them who receive the highest number of votes shall hold office for three years, the three of them who receive the next highest number of votes shall hold office for two years, and the remaining three of

them shall hold office for one year, each of them, however, holding office until his successor is elected and takes office.

Expiry of
term of
former
trustees.

(2) Upon the organization of the board first elected after an affirmative vote, the term of office of all trustees elected prior to the last election shall, notwithstanding anything to the contrary in this Act, expire.

Annual
election.

(3) After such first election, three trustees shall be elected annually by vote of the electors of the whole municipality, and each such trustee shall hold office until his successor has been elected.

Election
by ballot.

(4) Every election of trustees by general vote provided for in subsections 1 and 3 shall be by ballot and the provisions of subsections 4 and 5 of section 81 shall apply thereto.

Tenure of
office.

(5) If at the first election of trustees by general vote at the nomination meeting no more candidates are nominated for office than the nine who are to be elected and those nominated are declared to be duly elected, the three of them who have the highest rateable assessments shall hold office for three years, the three of them who have the next highest rateable assessments shall hold office for two years, and the remaining three of them shall hold office for one year, each of them, however, holding office until his successor is elected and takes office, and the amount of the rateable assessment of each of them shall be ascertained from the last revised assessment roll of the municipality.

Procedure
on tie vote.

(6) If at the first election of trustees by general vote under this section the third and fourth or the sixth and seventh of them in order of highest number of votes received an equal number of votes, that one of the third and fourth, or the sixth and seventh, respectively, who has the highest rateable assessment according to the last revised assessment roll of the municipality shall hold office for three years or two years, as the case may be, and until his successor is elected and takes office.

Election of
public school
trustees by
wards.

(7) After such question has been submitted and carried in the affirmative, the system of election provided for in subsections 1 and 3 shall remain in force for three years succeeding the year in which the vote was taken, but the council may thereafter submit to the electors assessed as public school supporters the following question:

Are you in favour of electing public school Yes
trustees by wards instead of by general vote? No

and if a majority of the persons voting on the question vote in the affirmative, then in the year next following that in which the vote is taken and for three years thereafter trustees

shall be elected by wards in the manner provided by section 76.
R.S.O. 1937, c. 357, s. 73.

78.—(1) The board of a town or village not divided into wards shall consist of six trustees, each of whom, except as otherwise provided in this Act, shall continue in office for two years and until his successor has been elected and the new board organized. Trustees in villages not divided into wards.

(2) After the first election, three of the board to be determined by lot at the first meeting of the board after their election, which determination shall be entered upon the minutes, shall hold office for one year, and the other three for two years, and after the first election three trustees shall be elected annually. R.S.O. 1937, c. 357, s. 74. Retirement by rotation.

ELECTION OF TRUSTEES IN URBAN MUNICIPALITIES

79. Every person named in the last revised voters' list as being entitled to vote at municipal elections shall be entitled to vote at the election of school trustees in urban municipalities, excepting persons who are assessed as supporters of separate schools and persons who are entered on such voters' list by reason of being the wife or husband of a person assessed as a supporter of separate schools. R.S.O. 1937, c. 357, s. 75. Who may vote at urban school elections.

80.—(1) Subject to section 81 elections of public school trustees in urban municipalities shall be held in the following manner: Provisions for elections of trustees.

(a) a meeting of the electors for the nomination of candidates shall take place at noon on the last Wednesday in the month of December, annually, at such place as shall be fixed by resolution of the board, and in municipalities divided into wards in each ward thereof if the board so directs; nomina-tions;

(b) the board shall, by resolution, before the second Wednesday in December in each year, name the returning officers to preside at the meetings for the nomination of candidates and also for holding the election in case of a poll and in case of the absence of such officer a chairman chosen by the meeting shall preside, and the board shall give at least six days' notice of the meeting; returning officer.

(c) if at the meeting only the necessary number of candidates are proposed and seconded the returning officer or chairman, after the lapse of one hour, shall declare such candidates duly elected and shall so notify the secretary; but if more candidates are nominated than proceedings at nomination;

are required to be elected the returning officer or chairman shall adjourn the proceedings until the first Wednesday in January then next, when a poll or polls shall be opened at such place or places and in each ward, where the municipality is divided into wards, as shall be determined by resolution of the board;

hours of
polling;

- (d) the polls shall be opened at the hour of ten o'clock in the forenoon and shall continue open until five o'clock in the afternoon and no longer, but any poll may be closed at any time after eleven o'clock in the forenoon when a full hour elapses without a vote having been polled;

furnishing
voters' list
in cities
and towns
divided
into wards;

- (e) in urban municipalities and where township boards exist, the clerk of the municipality shall furnish to the board, within three days after request in writing, the voters' list of the municipality, together with a supplementary list, either printed or in writing, of the names of persons who are assessed as supporters of separate schools;

for each
polling
place;

- (f) the board shall provide each polling place with such lists and a poll book, and the returning officer or deputy returning officers or the poll clerk shall enter in such book, in separate columns, the names of the candidates nominated, and shall write the names and residences of the electors offering to vote at the election, and shall in each column in which is entered the name of a candidate voted for by a voter set the figure "1" opposite the voter's name;

entries in
poll book;

oath to be
administered
when voter
objected to;

- (g) when an objection is made to the right of a person to vote, the returning officer or deputy returning officer shall require such person to make the following oath,

You swear (*or solemnly affirm*) that you are the person named (*or intended to be named*) in the list of voters now shown to you (*showing the list to the voter*);

That you are of the full age of twenty-one years;

That you are a public school supporter [*or in the case of an elector who is not assessed as a ratepayer: That you are a resident of this municipality and are not a supporter of separate schools*];

That you are a natural born or naturalized subject of His Majesty, and that you are not a citizen or subject of any foreign country;

That you have not before voted for school trustee at this election, at this or any other polling place in this ward (*or in this municipality, where the municipality is not divided into wards*) for school trustee;

That you have not, directly or indirectly, received any reward or gift, nor do you expect to receive any for the vote which you tender at this election;

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team or any other service connected with this election;

And that you have not directly or indirectly paid or promised anything to any person either to induce him to vote or to refrain from voting at this election. So help you God.

and after making such oath the person making it shall be entitled to vote;

(h) the returning officer or deputy returning officer shall, ^{duty of returning officer after close of election;} on the day after the close of the election, return the poll book to the secretary with his solemn declaration thereto annexed that the poll book has been correctly kept and contains a true record of the votes given at the polling place for which he was returning officer or deputy returning officer;

(i) the secretary shall add up the number of votes for ^{duty of secretary;} each candidate as appears from the poll book so returned, and shall declare elected the candidate or candidates having the highest number of votes, and shall forthwith notify the candidates in writing of the number of votes polled for each of them;

(j) when the result of the polling is indecisive by reason ^{casting vote.} of two or more candidates having an equal number of votes, all of such candidates shall be notified of the first meeting of the board after the election, and the member of the board present at the meeting who is assessed for the largest sum on the last revised assessment roll shall, before the organization of the board, give a vote for one or more of such candidates so as to decide the election.

(2) Where trustees are elected by wards in the case of a ^{Open voting where election by wards.} town divided into wards, or in the cases provided for in subsection 4 of section 82, and the election of trustees is not by ballot, it shall be conducted as nearly as may be in accordance with subsection 1. R.S.O. 1937, c. 357, s. 76.

ELECTION BY BALLOT

81.—(1) The board of an urban municipality or a town-ship board may, by resolution of which written notice shall be given to the clerk of the municipality on or before the 1st day of October in any year, require the election of school ^{Elections of trustees on same day as municipal elections.} trustees.

tees for the urban municipality or township to be held by ballot on the same day as municipal councillors or aldermen are elected, as the case may be.

Trustees may discontinue use of ballot at elections.

(2) Any such board may in like manner discontinue the use of the ballot on giving written notice to the clerk to that effect at the time hereinbefore mentioned, and thereafter the elections shall be conducted as provided in section 80.

Ballot not to be discontinued or resumed for three years after the change.

(3) Where any such board requires elections to be held by ballot, and elections are so held, no change shall be made in the mode of conducting the election for a period of three years, and should the mode of conducting the elections by ballot be discontinued at any time then the provisions of section 80 shall apply for a period of three years at least after the discontinuance.

Mode of conducting elections by ballot.

(4) Where notice is given requiring the election to be held by ballot, the election shall thereafter be held at the same time and place and by the same returning officer or officers and conducted in the same manner as the municipal nominations and elections of aldermen or councillors, and the provisions of *The Municipal Act* respecting the time and manner of holding the election, including the mode of receiving nominations for office, and the resignation of persons nominated, vacancies, and declarations of qualification and office, shall *mutatis mutandis* apply to the election.

Rev. Stat., c. 243.

Who entitled to vote at elections of school trustees in urban municipalities.

(5) A separate set of ballot papers shall be prepared by the clerk of the municipality for each of the wards or polling subdivisions, containing the names of the candidates in the same form *mutatis mutandis* as those used for councillors or aldermen, and no ballot shall be delivered to any person who is entered on the list of voters as a separate school supporter or by reason of being the wife or husband of a separate school supporter. R.S.O. 1937, c. 357, s. 77.

Election of trustees where wards abolished.

- 82.—(1) In towns divided into wards, the board, by resolution, may limit the number of trustees to six, provided that at least one month's notice was given of the intention to consider a resolution to that effect, and such limitation shall not come into operation until the close of the current school year.

By vote of electors of whole municipality.

(2) When such resolution has been adopted, the election shall thereafter be by vote of the electors of the whole municipality.

Retirement of trustees by rotation.

(3) The board shall by lot determine what trustee or trustees shall retire in addition to the number retiring by annual

rotation in order to admit of the election of three new trustees at the next annual election and thereafter three trustees shall be elected annually by the ratepayers of the whole municipality to fill the place of the same number retiring by rotation.

(4) In a city having a population of 20,000 or over, and until a resolution has been passed under subsection 1, in a city having a population of less than 20,000, and in a town, the trustees shall continue to be elected by wards notwithstanding that aldermen and members of the council are elected by general vote and not by wards. Election of trustees by wards in certain cities and towns.

(5) Where the trustees are elected by ballot, the election shall be conducted as nearly as may be in the manner provided in section 81, and the officers for holding such election shall be appointed by the municipal council as if the election of aldermen or councillors, by general vote had not been adopted for the city or town. R.S.O. 1937, c. 357, s. 78. Vote by ballot.

(NOTE.—*As to elections in a union school section, including an urban municipality and a portion of a township, see section 38.*)

VACANCIES ON BOARD

83.—(1) Where the office of trustee of a rural school section becomes vacant from any cause, the remaining trustees shall forthwith hold a new election to fill the vacancy in the manner provided for holding the annual election of trustees, and the person elected shall hold office for the remainder of the term for which his predecessor was elected. Vacancy in office of trustee.

(2) Subject to subsection 3, where the office of a trustee of an urban school board becomes vacant from any cause, a majority of the remaining trustees present shall at the first regular meeting after the vacancy occurs, elect some duly qualified person to fill the vacancy, and the person so elected shall hold office for the remainder of the term for which his predecessor was elected, and in the case of an equality of votes the chairman of the meeting shall have a second or casting vote. Vacancy in urban board.

(3) In the case of an urban school board, any vacancy which occurs within one month of the time for the next ensuing annual election shall not be filled in the manner provided by subsection 2, but the office shall remain vacant until the annual election, and if the term of the vacant office then expires a new trustee shall be elected, or if the term of the vacant office does not then expire, some duly qualified person shall be elected at the annual election to fill the vacancy for the unexpired term of office for which his predecessor was elected. Vacancy within one month of annual election.

Appoint-
ment of
trustees on
failure of
qualified
persons.

(4) Where the inspector reports that no persons duly qualified are available, the Minister may appoint as members of the board such persons as he may deem proper, and the persons so appointed shall have all the authority of a board as though they were eligible and duly elected according to the provisions of this Act. R.S.O. 1937, c. 357, s. 79.

CONTROVERTED ELECTIONS

Investiga-
tion of
complaints
by judge.

84.—(1) Every complaint respecting the validity or mode of conducting the election of a trustee or the return made by a returning officer in an urban municipality or in a township for which a township board has been established shall be made to the judge of the county or district court within twenty days after the election, and he shall, within a reasonable time, in a summary manner hear and determine the complaint, and may cause the assessment rolls, collector's rolls, poll books and other records of the election to be brought before him, and may inquire into the facts by oral testimony or upon affidavit, and may cause such persons as he may deem expedient to appear before him and give evidence.

Powers of
judge.

(2) The judge may confirm the election or set it aside, or declare that some other candidate was duly elected, or may order a new election, and may order the person found by him not to have been elected to be removed, and if the judge determines that any other person was duly elected he may order such person to be admitted, and if the judge determines that no person was duly elected he shall order a new election to be held, and he shall in all cases report his decision to the secretary of the board. R.S.O. 1937, c. 357, s. 80.

Bribery
and undue
influence.

Rev. Stat.,
c. 243.

85. In the case of an election of trustees in an urban municipality or in a township for which a township board has been established, the provisions of *The Municipal Act* as to bribery and undue influence shall apply, and in every case in which an election is complained of on those grounds the inquiry by the judge in reference thereto shall be by oral testimony only. R.S.O. 1937, c. 357, s. 81.

RESIGNATIONS

Trustees
may resign.

86.—(1) A trustee of a rural section may resign by giving notice in writing to each of the other trustees.

Re-election
of any
trustee
lawful.

(2) Where, after the resignation of a rural school trustee he has continued to act for three months without his right to do so having been called in question by proceedings to vacate his seat or for the holding of a new election, he shall be deemed to have continued to be a trustee, notwithstanding his resign-

nation, and shall hold office for the residue of the term for which he was elected.

(3) A member of an urban board may resign by giving written notice of his resignation to the secretary. Urban trustee may resign.

(4) A retiring trustee shall be exempted from serving for four years next after leaving office, but he may, with his own consent, be re-elected. R.S.O. 1937, c. 357, s. 82. Trustees resigning but continuing to act.

MEETINGS OF BOARDS

87.—(1) Unless a date for the first meeting has been decided upon by the board of the preceding year, every urban board shall hold its first meeting in each year on the third Wednesday in January at the hour of seven o'clock in the evening, or at such other hour on the same day and at such place as may have been fixed by resolution of the former board, or, if no place has been so fixed, at the usual place of meeting of the council of the municipality. First meeting of board.

(2) The secretary shall preside at the election of chairman, or if there is no secretary or in his absence the members present shall choose one of themselves to preside at such election, and the member so chosen may vote as a member. Chairman.

(3) In case of an equality of votes at the election of chairman, the member who is assessed for the largest sum on the last revised assessment roll shall have a second or casting vote. Casting vote.

(4) The presence of a majority of the members constituting a board shall be a quorum at any meeting, and a vote of the majority of such quorum shall be necessary to bind the corporation. Quorum.

(5) On every question other than the election of a chairman, the chairman or presiding officer of the board may vote with the other members of the board, and any question on which there is an equality of votes shall be deemed to be negatived. R.S.O. 1937, c. 357, s. 83. Equality of votes.

88.—(1) Subject to subsection 24 of section 15 and subsection 6 of section 71, every rural school board shall hold its first meeting in each year at the schoolhouse of the section not later than the Wednesday following the annual meeting at the hour of four o'clock in the afternoon, and shall be organized by the election of a chairman, a secretary and a treasurer or a secretary-treasurer. Organization of board at first meeting.

(2) Subsequent meetings shall be held at such time and place as the board may deem expedient. Subsequent meetings.

Quorum.

(3) The presence of a majority of the members constituting a board shall be necessary to form a quorum. R.S.O. 1937, c. 357, s. 84.

Regularity of proceedings.

89.—(1) No act or proceeding of a rural school board which is not adopted at a regular or special meeting at which at least two trustees are present shall be valid or binding.

In case of delay inspector may call first meeting.

(2) If for any reason an urban board has not held its first meeting as provided by subsection 1 of section 87, or a rural board has not held its first meeting as provided by subsection 1 of section 88, the inspector may at any time call the first meeting of the board for such day, at such hour and at such place as he may determine. R.S.O. 1937, c. 357, s. 85.

NON-RESIDENT PUPILS**Admission of non-resident pupils.**

90.—(1) The board shall admit to the school any non-resident pupil if the inspector reports in writing to the parent and to the secretary of each board affected that the accommodation is sufficient for the admission of the pupil and that the school is more accessible for him than the school in the section or urban municipality in which the pupil resides. R.S.O. 1937, c. 357, s. 86 (1); 1938, c. 35, s. 31.

Fees of non-resident pupils.

(2) The parent or guardian of the non-resident pupil shall pay such fees monthly as may be prescribed by the board, but the fees paid by the parent or guardian to such school shall not exceed the average cost per pupil of the maintenance of the school for the next preceding calendar year. R.S.O. 1937, c. 357, s. 86 (2).

Average cost per pupil, how computed.

(3) For the purposes of subsection 2 in computing the average cost per pupil all legislative, county and municipal grants of the preceding year shall be deducted from the gross cost, including interest and sinking fund charges, of maintaining the school during such year, and the net remaining sum shall be divided by the aggregate pupil-day attendance of all pupils for the year to ascertain the net pupil-day cost to the section or urban municipality for such year and the fee payable by a parent or guardian of a non-resident pupil shall not exceed the net pupil-day cost so ascertained, multiplied by the number of days attended by the non-resident pupil as shown in the daily register of the school. R.S.O. 1937, c. 357, s. 86 (3); 1941, c. 52, s. 15.

Resident of one section sending his children to another section.

(4) The parent or guardian shall be liable for the payment of all rates assessed on his taxable property for the purposes of the section or urban municipality in which he resides, but the board of that section or urban municipality shall remit

to the parent or guardian any rates so payable to the extent of the amount of the fees so paid to the board of the neighbouring school.

(5) Where the property of a non-resident is assessed for an amount equal to the average assessment of residents, the children of such non-resident shall be admitted to the public school of the section or urban municipality on the same terms and conditions as the children of residents. Attendance of children of non-residents.

(6) Where the children attending a neighbouring school reside three miles or more by the nearest public road from the schoolhouse in the section or urban municipality to which they belong, the board of the section or urban municipality in which such children reside shall remit so much of the taxes payable by the parents or guardians of such children for school purposes as equals the fees paid to the board of the neighbouring school. Remission of school tax where certain fees paid.

(7) A person of school age maintained in a county house of refuge or a children's shelter shall be deemed to be a non-resident, and the county council shall pay to the board of the school attended by such person such monthly fees as may be agreed upon, or at least the average cost per pupil of the maintenance of the school. R.S.O. 1937, c. 357, s. 86 (4-7). Pupils in house of refuge.

(8) Where fees on behalf of non-resident pupils are payable by one school board to another, the maximum fees which may be charged shall be calculated as in subsection 3, except that amounts of legislative county and municipal grants shall not be deducted from the gross cost. 1946, c. 82, s. 4, *part.* Fees of non-resident pupils.

(9) Where a person of school age who resides on lands which are exempt from taxation for school purposes, attends a public school and he and his parents or guardians are not assessed for, and do not pay, taxes for school purposes in the school section, the parent or guardian of the pupil or an agent in his behalf shall pay to the board of the school such monthly fees as may be prescribed by the board, but not exceeding the average cost per pupil computed as provided in subsection 3 except that in such computation county and municipal grants shall not be deducted. 1948, c. 73, s. 3. Pupils residing on tax exempt lands.

91.—(1) Where in any rural school section there are for two consecutive years less than eight persons between the ages of five and fourteen years residing therein, the Minister may direct that the public school of the section shall no longer remain open, and the school shall thereupon be closed until the Minister otherwise directs. R.S.O. 1937, c. 357, s. 87 (1). When school may be closed.

Providing for admission of pupils from rural school section to urban or Indian schools.

(2) The board of a rural section may provide for the admission of the pupils of such section to the schools of any adjoining urban municipality or school section or to an Indian school under the supervision of a public school inspector, subject to the approval of the Minister and of the board of such urban municipality or school section or authority having control of the Indian school, and the accommodation provided under such arrangement shall be taken in lieu of the accommodation which the board is required by this Act to make for the pupils of the section, and as a public school within the meaning of section 115. R.S.O. 1937, c. 357, s. 87 (2); 1947, c. 88, s. 4 (1).

Expenses payable by township.

(3) The township council shall pay to the board of such rural section their actual disbursements for the maintenance of their pupils at and their transportation to and from the school which they attend, not exceeding the minimum sum required by subsections 1 and 2 of section 115 to be levied, collected and applied to teachers' salaries. R.S.O. 1937, c. 357, s. 87 (4); 1947, c. 88, s. 4 (2).

Share of grants.

(4) The board shall also be entitled to receive such share of the legislative and county grants as may be determined by the Minister in case the amount received from the township council is not sufficient to cover such actual disbursements. R.S.O. 1937, c. 357, s. 87 (5).

Fees and travelling expenses.

(5) The board may levy and collect upon the taxable property of the section, such further sum as may be necessary to pay the fees of pupils attending the schools of adjoining urban municipalities or school sections or Indian schools and to pay for the conveyance of the pupils to and from such schools as well as such other sums as the board may deem expedient or as may be required by the Act. 1941, c. 52, s. 16 (2).

Agreements between boards as to school accommodation.

92.—(1) The board of education or board of public school trustees in an urban municipality may agree with the board of public school trustees of an urban municipality or school section or township school area adjacent to the boundaries of the first-mentioned urban municipality for the erection by either or any of the boards of a school or schools in the adjacent urban municipality, school section or township school area, or in the first-mentioned municipality, for the joint accommodation of pupils from the adjacent urban municipality, school section or township school area and from the first-mentioned urban municipality or from any designated area thereof contiguous to the township municipality, school section or township school area, or for the joint use of a school or schools in any such school section or municipality by pupils

from the first-mentioned urban municipality and from the adjacent urban municipality, school section or township school area or the designated area.

(2) Where any such agreement provides that a part of the annual expenditure for maintenance and for the payment of the debenture debt shall be borne by each board, the assessment shall be equalized annually by a board of arbitrators, one of whom shall be appointed by each of the boards interested, and in the case of the number so appointed being an even number the judge of the county or district court shall be a member of the board and the chairman thereof.

Equaliza-
tion of
assessment.

(3) The agreement shall fix the accommodation to be provided, and where the schools are to be erected, provide for the erection thereof and the class of buildings to be erected, and shall also fix the proportion of the cost of providing such accommodation or of erecting and maintaining the school to be contributed by the urban municipality, the school section and the township school area, respectively.

Terms of
agreement.

(4) Each of the boards shall include in its annual estimates an amount sufficient to pay its proportion of such cost, and the same shall be levied, collected and paid over by the corporation of the urban municipality and the corporation of the township as part of the rate levied for public school purposes in the urban municipality or in the school section or township school area.

Raising
proportion
of cost.

(5) The agreement shall not be binding nor shall it be acted upon until it has received the approval in writing of the Minister.

Agreement
to be
approved by
Minister.

(6) The Minister may make regulations in the manner provided by *The Department of Education Act* for the apportionment of the legislative and municipal grants in the case of schools to which this section applies, and may fix the proportion which shall be paid on account of any such schools out of the legislative grants for rural and urban schools, respectively, and the proportion of the municipal grant to rural schools which shall be paid on account of such school. R.S.O. 1937, c. 357, s. 88.

Regulations.
Rev. Stat.,
c. 94.

POWERS AND DUTIES OF BOARDS

93. It shall be the duty of the boards of all public schools to see that the schools are conducted according to this Act and the regulations, and they shall have power,

Duties of
board,

- (a) to appoint a secretary and a treasurer or a secretary-treasurer, who may be a member of the board, and

appointment
of officers;

to appoint such committees, officers and servants as may be deemed expedient;

to fix
meetings of
the board.

- (b) to fix the time and place of meetings of the board, the mode of calling and conducting them, and of keeping a correct account of the proceedings of such meetings, and to transmit to the Minister all returns and reports required by the regulations; R.S.O. 1937, c. 357, s. 89, cls. (a, b).

appointment
and removal
of teachers.

Rev. Stat.,
c. 383.

- (c) subject to *The Teachers' Boards of Reference Act*, to appoint and remove such teachers, officers, and servants as it may deem expedient, and to fix their salaries and prescribe their duties; 1943, c. 26, s. 11; 1949, c. 84, s. 7.

inspection
of school
property at
first meeting
of board

- (d) in the case of a rural school board at the first meeting of the board, to examine the schoolhouse, out-buildings and school furniture, maps and apparatus, with a view to ascertaining what repairs or improvements may be necessary, and to make suitable provision for lighting fires and keeping the schoolhouse and premises in a cleanly and sanitary condition by appointing some person for that purpose; R.S.O. 1937, c. 357, s. 89, cl. (c).

to provide
accommoda-
tion;

- (e) to provide adequate accommodation for all children between the ages of five and sixteen years, resident in the municipality, and in the case of rural schools for two-thirds of such children resident in the section, as ascertained in both cases by the school census taken by the assessor in the next preceding year, and in computing such residents the children of persons on whose behalf a separate school has been established under *The Separate Schools Act* shall not be included; provided that where the accommodation is not more than sufficient for all children over six years of age or where the general progress of the school or grade may be prejudicially affected, the inspector may in either case authorize the board to refuse to admit any pupil during the school year who is not six years of age on the opening day of school in September; R.S.O. 1937, c. 357, s. 89, cl. (d); 1944, c. 56, s. 12.

Rev. Stat.,
c. 356.

to provide
and main-
tain school
premises.

- (f) to acquire or rent school sites and premises, and to build, repair, furnish and keep in order the school-houses, furniture, fences and all other school property, and to keep the wells, closets and premises in a proper sanitary condition, and to make provision for insuring adequately the school buildings and

equipment; R.S.O. 1937, c. 357, s. 89, cl. (e); 1946, c. 82, s. 5 (1).

- (g) to procure registers, maps, globes, apparatus and, if deemed expedient, prize books, and to establish and maintain school libraries; to procure books and appliances;
- (h) to determine the number, grade, territorial boundaries and description of schools to be opened and maintained; the teachers to be employed; the terms on which they are to be employed and their remuneration and rank, whether principals or assistants; R.S.O. 1937, c. 357, s. 89, cls. (f, g). to determine number and kind of schools, etc.;
- (i) to appoint, where two or more schools are under the control of a board, such supervising officials as may be deemed necessary and, subject to the regulations, to prescribe the duties of such officials; 1946, c. 82, s. 5 (2). supervising officials;
- (j) to keep open each school during the whole period of the school year, except where it is otherwise provided by this Act, and, if deemed expedient, to establish kindergartens and classes for industrial training and instruction in household science, and establish school gardens and summer or vocational schools; to keep school open and establish classes, etc.;
- (k) in the case of a rural school board, to ascertain and report to the Minister at least once in each year the names and ages of all children of school age who are blind or who are deaf and dumb and who would otherwise be required to attend the school under their charge; rural school, reporting deaf, dumb and blind;
- (l) to provide and pay for such medical and dental inspection of pupils as the regulations may prescribe, but only where provision for such medical and dental inspection was inaugurated by the board prior to the 31st day of July, 1924; dental and medical inspection;
- (m) to enter into an agreement with the local board of health of the municipality to provide medical and dental inspection of pupils as authorized by *The Public Health Act* as the board may deem proper; agreement for medical and dental inspection; Rev. Stat., c. 306.
- (n) to expel from the school a pupil who is adjudged by the board and the teacher to be so refractory that his presence in school is injurious to the other pupils; dismissal of refractory pupils;
- (o) if deemed expedient to purchase for the use of pupils text-books and other school supplies, and either to furnish the same to the pupils free of charge or to books and school supplies;

collect for the use thereof from their parents or guardians a sum not exceeding twenty cents per month per pupil to defray the cost thereof;

exemption
of indigent
persons
from school
rates;

- (p) if deemed expedient, to exempt any indigent person from the payment of school rates, in whole or in part, and to notify the clerk of the municipality of such exemption on or before the 1st day of August, and, where deemed necessary, to provide for the children of such person text-books and other school supplies at the expense of the board;

urban
boards
to pay
officials and
maintenance
expenses,
and make
contribu-
tions to
pension fund;

- (q) to provide and pay, in the case of urban schools, salaries of inspectors, teachers, instructors and other officers and employees of the board, repairs to buildings, furnishings, fuel, light, stationery, equipment, insurance and miscellaneous expenses, including travelling expenses of trustees and officers of the board, incurred by the authority of the board, and, if deemed expedient, to make contributions to a pension fund for the benefit of teachers, inspectors, officers and other employees of the board;

estimates
to be
submitted
to council;

- (r) to prepare and submit to the municipal council on or before such time as the council may prescribe, estimates for the current year of all sums required to be provided to meet expenditures for the schools under their charge, and the estimates shall show the amount of any surplus or deficit remaining at the end of the preceding year and any revenues estimated to be derived by the board during the current year from all sources;

payment of
teachers'
salaries;

- (s) to provide, in the case of rural schools, for the payment of a secretary's and teachers' salaries monthly, and, if necessary, to borrow on the promissory note of the board, under its corporate seal, at interest not exceeding eight per cent per annum, such moneys as may be required for that purpose until the taxes imposed therefor are collected;

to publish
auditors'
report;

- (t) to submit, in the case of urban municipalities, all accounts, books and vouchers to be audited by the municipal auditors, whose duty it shall be to audit the same, and to publish, as soon as the audit is made, in one or more of the public newspapers or otherwise, an abstract of the annual report of the auditors with their findings and recommendations;

custody and
disposal of
school
property;

- (u) to take possession of all property acquired or given for public school purposes and to hold it according to the terms on which it was acquired or given, and

to dispose, by sale or otherwise, of any school site or property not required in consequence of a change of site or other cause, to convey the same under their corporate seal, and to apply the proceeds thereof for school purposes or as directed by this Act;

- (v) to supplement out of school funds, as deemed expedient, any allowance payable under this Act to superannuated teachers; R.S.O. 1937, c. 357, s. 89, ^{supplementing super-annuation allowances;} cls. (h - i).
- (w) to contribute, as deemed expedient, towards providing life insurance for employees of the board or any class thereof, and to make provision for insuring the board against claims in respect of accidents incurred by pupils while under the jurisdiction or supervision of the board; 1950, c. 65, s. 7.
- (x) to permit the schoolhouse and premises to be used for any educational or other lawful purposes which may be deemed proper, provided the proper conduct of the school is not interfered with; ^{use of school-house;}
- (y) if deemed expedient and subject to the regulations, to establish, conduct and maintain free lectures, open to the public, and to include in their estimate for the current year the expense thereof; ^{evening lectures;}
- (z) if deemed expedient, to dismiss the secretary or treasurer at any time and thereupon to make a new appointment to fill the vacancy; ^{dismissal of secretary or treasurer;}
- (za) if deemed expedient, to provide books, stationery and other materials necessary in connection with the establishment and maintenance of a penny savings bank, or any system introduced for the encouragement of thrift and the habit of saving; ^{penny savings banks;}
- (zb) if deemed expedient, to provide for surgical treatment of children attending the school suffering from minor physical defects, where in the opinion of the teacher and (where a school nurse and medical inspector is employed) of the nurse and medical inspector, the defect interferes with the proper education of the child, and to include in their estimates for the current year the funds necessary for cases where the parents are not able to pay, provided that no such treatment shall be undertaken without the consent of the parent or guardian of the child; ^{providing surgical treatment for children in certain cases;}
- (zc) in cities of 100,000 population and over, to provide, if deemed expedient, and subject to the approval of the Minister, special classes for the instruction of ^{special classes for blind and deaf;}

blind or deaf and dumb pupils residing within the municipality;

agricultural
equipment;

(zd) to provide and pay for such equipment as may be necessary for the teaching of agriculture, and, if deemed expedient, to contribute toward the support of rural school fairs;

operation
of play-
grounds;

(ze) if deemed expedient, to provide and maintain such equipment as may be deemed advisable and to operate the playground as a park or playground and rink during the school term or in vacation or both, and to provide such supervision as the board may deem proper, provided the proper conduct of the school is not interfered with;

organization
and opera-
tion of gym-
nasium.

(zf) if deemed expedient, to organize and carry on gymnasium classes in the school building for pupils or others during the school term or in vacation or both, and to provide supervision and training for such classes, provided the proper conduct of the school is not interfered with. R.S.O. 1937, c. 357, s. 89, cls. (u - zd).

Investment
of moneys.

94. The board may invest any proceeds from an insurance claim or any moneys received for any special purposes through legacy, gift or otherwise, and for such purposes shall have and may exercise the powers conferred upon trustees by *The Trustee Act*. 1950, c. 65, s. 8.

Rev. Stat.,
c. 400.

Employing
teachers in
charitable
institutions.

95. The board of a city may, when so requested in writing by a charitable organization having the charge of children of school age, employ and pay teachers for the education of such children and pay for and furnish school supplies for their use, whether or not such children are being educated in premises within or beyond the limits of the city, and any children being so educated shall be subject to the provisions of this Act and the regulations. R.S.O. 1937, c. 357, s. 90.

Grant for
encourage-
ment of
physical
training.

96.—(1) An urban board may expend such sums as it may deem expedient for establishing and maintaining cadet corps and in promoting and encouraging athletic exercises, but such sums shall not exceed \$200 per annum when the annual registered attendance of pupils does not exceed 3,000, and \$50 additional for each additional 1,000 in attendance.

Military
uniforms.

(2) The board may also provide uniforms for classes in military drill.

Consolidation
of funds for
games.

(3) Where a board of education has been established in any city or town the allowance for games to high schools and

public schools may be consolidated, and games for the high schools and public schools held on the same day. R.S.O. 1937, c. 357, s. 91.

97. The board may pay the travelling expenses of any member of the board or of any teacher in the employment of the board incurred in attending meetings of the Ontario Educational Association, or other like association of teachers or trustees in Ontario, and the board may make grants to the Ontario Educational Association or other like associations in Ontario. R.S.O. 1937, c. 357, s. 92.

Travelling expenses attending teachers' association.

98. If deemed expedient, the board may pay the costs, or any part thereof, incurred by any member, teacher, officer or employee of the board in successfully defending any legal proceeding brought against him for libel or slander in respect of any statements published at any meeting of the board or of any committee thereof, relating to the employment, suspension or dismissal by the board of any person. R.S.O. 1937, c. 357, s. 93.

Costs of legal proceedings.

99. The board may provide for the transportation of pupils to and from a school maintained by it or which is used jointly by it and another board or other boards. R.S.O. 1937, c. 357, s. 94, *amended*.

Board may provide for transportation of pupils.

100.—(1) The board of a section or municipality may provide for the transportation of pupils residing in the section or municipality, as the case may be, to and from a public, continuation, high or vocational school situate elsewhere which such pupils have the right by law to attend, and for the purpose may co-operate with any other board. R.S.O. 1937, c. 357, s. 95 (1); 1948, c. 73, s. 4 (1).

Transportation of resident pupils attending outside schools.

(2) The cost of providing transportation under section 99 or this section shall be an expense to be included in the estimates for the current year. R.S.O. 1937, c. 357, s. 95 (2).

Cost of transportation.

(3) Notwithstanding subsection 2, for the purpose of providing transportation of pupils a board may purchase a bus or buses or other vehicles either out of current revenue or by the issue of municipal debentures as authorized by this Act. 1948, c. 73, s. 4 (2).

Purchase of vehicles for transportation of pupils.

DUTIES OF TREASURER

101.—(1) Every treasurer and collector and, if required by the board, every other officer of the board shall give security for the faithful performance of his duties, and the security shall be deposited for safe keeping as directed by the board.

Security by officers.

Form of
security.

(2) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company as defined in *The Guarantee Companies Securities Act*. 1950, c. 65, s. 9.

Rev. Stat.,
c. 162.

Trustees
not to be
sureties.

(3) A trustee shall not be surety for the treasurer or for any person entrusted with school money. R.S.O. 1937, c. 357, s. 96 (2).

Duties.

(4) The treasurer shall,

- (a) receive and account for all school moneys;
- (b) open an account in the name of the board in a chartered bank or in such other place of deposit as may be approved by the board, and deposit to the credit of the account all money received by him on account of the board;
- (c) disburse all moneys as directed by the board;
- (d) produce, when required by the board or by auditors or other competent authority, all papers and money in his possession, power or control belonging to the board. 1949, c. 84, s. 8.

DUTIES OF SECRETARY

Duties of
secretary,

minutes of
meetings;

102. It shall be the duty of the secretary,

calling
special
meetings;

- (a) to keep a full and correct record of the proceedings of every meeting of the board in the minute book provided by the board for that purpose, and to see that the minutes, when confirmed, are signed by the chairman of the meeting;
- (b) in the case of a rural school section, to call a special meeting of the board at the request in writing of two trustees or of five electors, specifying the objects for which the meeting is to be held, and to state the objects of the meeting in the notice calling the meeting;

names and
addresses of
trustees and
teachers to
be given to
township
clerk;

- (c) in the case of a rural section, to give notice in writing, before the 15th day of January in each year, to the inspector and to the clerk of the municipality of the names and post office addresses of the trustees and of the teachers employed, and to give reasonable notice in writing from time to time of any changes;

notice of
annual
meeting
and meet-
ings to fill
vacancies in
board, etc.;

- (d) in the case of a rural section, to give the notice required by this Act of each annual meeting of the ratepayers of the section, to call a special meeting of the ratepayers when directed by the board, or, on the request in writing of five electors, for filling

any vacancy in the board, for the selection of a new school site, or the appointment of a school auditor, or for any other lawful school purpose, and to cause notices of the time and place and of the objects of the meeting to be posted up in three or more public places in the section at least six clear days before the time of holding the meeting, and to cause to be prepared for the annual meeting of the ratepayers a report for the year then ending containing a summary of the proceedings of the board during the year, a detailed account of all school moneys received and expended during the year and any further information that may be required by the Minister or by the regulations, such report to be signed by the trustees and by either or both of the auditors of the section; report at annual meeting;

- (e) to transmit to the inspector all returns, on or before the 15th day of January in each year, according to the forms prescribed by the regulations. R.S.O. 1937, c. 357, s. 97. transmission of returns.

103. Where the secretary of a rural school section is not a member of the board he may be allowed such remuneration for his services and for attending to the repairs of the school-house or premises as shall be fixed by the trustees, and where he is a member of the board he may be allowed compensation for his services as provided in subsection 3 of section 139. R.S.O. 1937, c. 357, s. 98. Compensation of secretary-treasurer.

AUDITORS OF RURAL SECTIONS

104.—(1) There shall be two auditors for every rural section, one of whom shall be elected annually by the ratepayers at the annual meeting or at a special meeting, and the other appointed by the board on or before the 1st day of December in each year. Auditors.

(2) Where an auditor refuses or is unable to act or dies, another may be elected or appointed in his place. Filling vacancies.

(3) If from any cause at any time after the 1st day of December there are not two auditors willing, able and authorized to act, the inspector on the written request of any two ratepayers shall appoint one or both auditors as the case may require. Appointment by inspector.

(4) The board or the secretary and treasurer shall lay all accounts before the school auditors or one of them, together with the agreements, vouchers, contracts and books in their possession, and the board and the secretary and treasurer and each of them shall afford to the auditors all the informa- Trustees and secretary-treasurer to lay accounts, etc., before auditors.

tion in his or their power as to the receipts and expenditures which the auditors or either of them may require.

Time of
audit.

(5) The auditors, or one of them, shall on or immediately after the 1st day of December in each year appoint a time, before the day of the next ensuing annual school meeting, for examining the accounts of the school section.

Auditors for
consolidated
school.

(6) There shall be two auditors for every consolidated school, one of whom shall be appointed by the trustees and the other by the inspector. R.S.O. 1937, c. 357, s. 99.

Duties of
auditors.

105.—(1) It shall be the duty of the auditors to examine into and decide upon the accuracy of the accounts of the section, and whether the board has duly expended for school purposes and accounted for the moneys received by it, and to submit the accounts with a full report thereon at the next annual school meeting.

Differences
between
auditors.

(2) Any difference of opinion between the auditors on any matter in the accounts shall be decided by the inspector.

Report of
objections.

(3) If both auditors object to the lawfulness of any expenditure they shall report the matter to the annual meeting, and shall submit it to the Minister, whose decision shall be final. R.S.O. 1937, c. 357, s. 100.

Powers of
auditors.

106. The auditors or either of them may require the attendance of all persons interested in the accounts, and of their witnesses, with such books, papers and documents as the auditor or auditors may direct, and may administer oaths to such persons and witnesses. R.S.O. 1937, c. 357, s. 101.

May com-
plete audit
after time
prescribed.

107. An auditor who has entered upon an audit may complete the same although he has not done so within the time prescribed by this Act. R.S.O. 1937, c. 357, s. 102.

TEACHERS

Duty of
teacher re,

108. It shall be the duty of every teacher,

instruction
and
discipline;

- (a) to teach diligently and faithfully the subjects in the public school course of study as prescribed by the regulations, to maintain proper order and discipline in the school, to encourage the pupils in the pursuit of learning, and to inculcate by precept and example respect for religion and the principles of Christian morality and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues;

- (b) to use the English language in instruction and in all communications with the pupils in regard to discipline and the management of the school, except where it is impracticable to do so by reason of the pupil not understanding English, but recitations requiring the use of a text-book may be conducted in the language of the text-book; ^{use of English language;}
- (c) to see that the schoolhouse is ready for the reception of pupils at least fifteen minutes before the time of opening in the morning and five minutes before the time of opening in the afternoon, to call the roll every day according to the register prescribed by the regulations, to enter in the visitors' book visits made to the school, to give the inspector, trustees and visitors access at all times to the register and visitors' book, and to deliver the register, the schoolhouse key and other school property in his possession to the board on demand, or when his agreement with the board has expired, or when for any reason his engagement has ceased; R.S.O. 1937, c. 357, s. 103, cls. (a - c); ^{duties in and about the school-house, registers, etc.;}
- (d) to classify the pupils according to the courses of study prescribed, to conduct the school in accordance with a time-table which shall be accessible to pupils and visitors, to prevent the use by pupils of text-books which are not authorized by the regulations or prescribed by the Minister, to attend regularly the teachers' institutes in the inspectorate, to notify the board and the inspector of his absence from school and the reason therefor, and, subject to revision by the inspector, to make at the end of each school term such promotions from one grade to another as he may deem expedient; 1945 (2nd Sess.), c. 8, s. 19. ^{classification of scholars and conduct of classes;}
- (e) to hold closing exercises of the school and to give due notice thereof to the board, to any school visitors who reside in the school section, and through the pupils to their parents or guardians, and to hold such examinations as may be required by the inspector for the promotion of pupils or for any other purpose as the inspector may direct; ^{examinations;}
- (f) to furnish to the Minister and to the inspector any information which it may be in his power to give respecting the condition of the school premises, the discipline of the school, the progress of the pupils and any other matter affecting the interests of the school, and to prepare such reports of the board as are required by the regulations; ^{information for Minister and inspector;}

care of
health of
pupils and
preservation
of school
property;

- (g) to give assiduous attention to the health and comfort of the pupils, to the cleanliness, temperature and ventilation of the schoolhouse, to the care of all maps, apparatus and other school property, to the preservation of shade trees and the orderly arrangement and neat appearance of the playgrounds, and to report promptly to the board and to the municipal health officer or to the school medical officer where one has been appointed, when he has reason to suspect the existence of any infectious or contagious disease in the school, or the unsanitary condition of the schoolhouse, outhouses or surroundings; R.S.O. 1937, c. 357, s. 103, cls. (e - g).

infectious
diseases
among
pupils;

- (h) to refuse admission to the school of any pupil who he believes is infected with or exposed to communicable diseases requiring quarantine and placarding under regulations made pursuant to *The Public Health Act* until furnished with a certificate of a medical officer of health or of a duly qualified medical practitioner approved by him that all danger from exposure to contact with such pupil has passed; 1944, c. 56, s. 14.

Rev. Stat.,
c. 306.

disciplinary
powers.

- (i) to suspend any pupil guilty of persistent truancy, or persistent opposition to authority, habitual neglect of duty, the use of profane or improper language, or conduct injurious to the moral tone of the school, and to notify the parent or guardian of the pupil and the board of the suspension, but the parent or guardian of any pupil suspended may appeal against the action of the teacher to the board which shall have power to remove, confirm or modify the suspension. R.S.O. 1937, c. 357, s. 103, cl. (i).

Refusal to
give up
key, etc.

109. A teacher who refuses to deliver to the board any visitors' book, school register, schoolhouse key or any other school property in his possession shall not be a qualified teacher until restitution is made, and he shall also forfeit any claim which he may have against the board. R.S.O. 1937, c. 357, s. 104.

Change of
text-book.

110. Subject to the written approval of the board, any text-book authorized by the regulations or prescribed by the Minister which is in actual use in a public school may be changed by the teacher for any other authorized or prescribed text-book on the same subject. 1945 (2nd Sess.), c. 8, s. 20.

Memoran-
dum of
contract.

111.—(1) A memorandum of every contract of employment between a board and a teacher shall be made in writing in the

form of contract prescribed by the regulations, signed by the parties, sealed with the seal of the board and executed before the teacher enters upon his duties, but if for any reason the memorandum is not so made every contract shall be deemed to include the terms and conditions contained in the prescribed form of contract. 1949, c. 84, s. 9.

(2) No person shall be employed or act as a teacher unless he holds a certificate of qualification. Qualified teacher.

(3) Unless otherwise expressly agreed, a teacher shall be entitled to be paid his salary in the proportion which the number of days during which he has taught bears to the whole number of teaching days in the year. Salary of teacher.

(4) Every teacher shall be entitled to his salary notwithstanding his absence from duty on account of sickness for a period not exceeding four weeks in any one year of his employment if the sickness is certified to by a physician, or in a case of acute inflammatory condition of the teeth or gums by a licentiate of dental surgery, but the period of four weeks may in any case of sickness be allowed and extended at the pleasure of the board without a certificate. R.S.O. 1937, c. 357, s. 106 (2 - 4). Cases of sickness or dental treatment.

(5) Every teacher shall be entitled to his salary notwithstanding his absence from duty as a witness in any court to which he has been summoned in any proceedings to which he is not a party or one of the persons charged. 1943, c. 26, s. 12. Appearing as witness in court.

(6) Every teacher shall be entitled to his salary notwithstanding his absence from duty in any case where, because of exposure to a communicable disease, he is quarantined or otherwise prevented by the order of the medical health authorities from attending upon his duties. Absence of teacher in quarantine.

(7) All matters of difference between boards and teachers in regard to salary or other remuneration whatever may be the amount in dispute shall be determined in the division court of the division where the cause of action arose, subject to appeal, as provided by this Act. Disputes between teacher and trustees.

(8) If it appears to the judge on the trial of an action for the recovery of a teacher's salary that there was not reasonable ground for the board disputing its liability or that the failure of the board to pay was from an improper motive, he may award as a penalty a sum not exceeding three months' salary. Penalty on board for non-payment of salary.

(9) For the purposes of subsection 8 the failure of a board to pay a teacher's salary may be extended by a judge to include failure to pay a teacher's salary when an agreement for his Failure of board to pay salary when no written agreement.

employment has been made by the board but no written agreement has been entered into and executed as required by subsection 1, if the judge is satisfied upon the evidence that the refusal of the board to pay the salary by reason of the absence of an agreement in writing is without merit. R.S.O. 1937, c. 357, s. 106 (5 - 8).

Teaching
certificates.

112.—(1) Any British subject of good moral character and physically fit to perform the duties of a teacher, may be awarded a certificate of qualification as a teacher upon passing the examinations prescribed by the regulations.

Term of
certificates.

(2) All certificates shall be valid for such periods as the regulations prescribe.

Suspension
of certifi-
cate for
misconduct,
etc.

(3) The inspector may suspend the certificate of any teacher in his inspectorate for inefficiency, misconduct, or a violation of this Act or of the regulations or for wilful neglect or refusal to carry out his agreement with a board, and he shall give notice in writing to the Minister, to the board concerned and to the teacher of the suspension and of the reasons therefor.

Appeal to
Minister.

(4) The teacher may appeal to the Minister, who may make such order or orders with regard to the suspension as he deems proper. R.S.O. 1937, c. 357, s. 107.

Organiza-
tion of
teachers'
institutes.

113.—(1) Subject to the regulations, teachers may organize themselves into teachers' institutes for the purpose of receiving instruction in methods of teaching and for discussing educational methods.

Aid to
teachers'
institutes
by the
Legislature
and equiva-
lent from
municipal-
ities.

(2) The Minister may out of any money appropriated for that purpose apportion \$25 to each teachers' institute so organized and conducted according to the regulations where the number of teachers in an inspectorate or united inspectorate is one hundred or less, and where it is more than one hundred, \$25 for each additional one hundred or portion thereof, and the council of each county, city or separated town, or town in territory without county organization shall pay annually to the president of each teachers' institute established within such county, city or town a sum at least equal to the amount so apportioned.

City and
county
sharing.

(3) If the teachers in an inspectorate composed of a city and part of a county are united in one teachers' institute, the corporation of each municipality shall pay its share of the equivalent of the legislative grant in the proportion that the number of teachers in each inspectorate bears to the total number of teachers in the combined inspectorates.

(4) In territory without county organization the Minister may apportion \$50 to each teachers' institute where there is no city or town council liable for such contribution. R.S.O. 1937, c. 357, s. 108. In the districts.

LEGISLATIVE AND MUNICIPAL GRANTS

114.—(1) With respect to all moneys received by him from the county treasurer a township treasurer shall be a sub-treasurer of the county treasurer, but the county council may by by-law constitute the county treasurer the sub-treasurer for municipalities not separated from the county. Who to be sub-treasurer.

(2) The treasurer of the school board of each city and separated town shall receive the government grants apportioned to the city or town and shall hold the same for school purposes subject to the order of the board. Treasurers of cities and separated towns to receive grants.

(3) The treasurer and sub-treasurer and their sureties shall be accountable for school moneys to the county, city or town, as the case may be, and any bond or security given by a treasurer or sub-treasurer for duly accounting for and paying over moneys coming into their hands shall apply to school moneys, and may be enforced against the treasurer or sub-treasurer or his sureties in case of default on his or their part. R.S.O. 1937, c. 357, s. 109. Responsibility of treasurer and sureties.

115.—(1) The council of each township in a county shall each year levy and collect by assessment upon the taxable property of the public school supporters of the whole township, not included in an urban municipality or annexed to an urban municipality for school purposes, at least the sum or sums set forth below for every public school where a teacher or a principal teacher is engaged for two consecutive terms and the additional sums set forth below where an assistant teacher is engaged for two consecutive terms, Township grant towards teachers' salaries in counties.

(a) where according to the equalized assessments the assessed value of all the taxable property of the public school supporters in such a township is at least equal to an average assessment of \$100,000 for each section therein, the sum of \$600 at least for every principal teacher and the additional sum of at least \$400 for every assistant teacher;

(b) where such assessed value is at least equal to an average assessment of \$60,000, but is less than an average assessment of \$100,000, for each section, at least \$500 for each principal and \$350 for each assistant;

- (c) where such assessed value is at least equal to an average assessment of \$40,000, but is less than an average assessment of \$60,000, the sum of \$400 at least for each principal and \$300 for each assistant;
- (d) where such assessed value is at least equal to an average assessment of \$30,000, but is less than an average assessment of \$40,000, the sum of at least \$300 for each principal and \$200 for each assistant;
- (e) where such assessed value is below an average assessment of \$30,000, the sum of at least \$150 for each principal and \$100 for each assistant teacher;
- (f) where a teacher or principal teacher is engaged for one school term or longer, but for less than two consecutive school terms, a proportionate amount of the sums set forth above shall be levied and collected for every principal and every assistant teacher.

In townships in the districts.

(2) In a township in territory without county organization, whatever its assessment may be, the council of the township shall each year levy and collect as aforesaid the sum of \$150 at least for every school where a teacher or principal teacher is engaged for two consecutive school terms, and a proportionate part of such sum where a teacher or principal teacher is engaged for one school term or longer, and an additional sum of at least \$100 for every assistant teacher engaged for two consecutive school terms, and a proportionate amount of such sum where such assistant teacher is engaged for one school term or longer. R.S.O. 1937, c. 357, s. 112 (1, 2).

Application of township grant.

(3) The sums so levied and collected shall be applied exclusively to teachers' salaries, and payment of sums to boards under this section shall not be made unless the salary of the teacher for the year, in each case, is at least \$1,200. R.S.O. 1937, c. 357, s. 112 (3); 1945 (2nd Sess.), c. 8, s. 22.

Township grants to union school sections.

(4) In the case of a union school section formed of parts of townships or of a township school area consisting of more than one township or parts thereof, the sums mentioned in subsections 1 and 2 shall be paid by the respective township councils in proportions to be fixed in accordance with the provisions of section 40 or 41, as the case may be. R.S.O. 1937, c. 357, s. 112 (4); 1949, c. 84, s. 10.

Township to raise salary and expenses of attendance officers under

(5) The council of every township shall each year levy and collect by assessment upon the taxable property of the whole township not included in an urban municipality or annexed thereto, for school purposes, such a sum as is required to pay the salary and expenses of the attendance officer or officers appointed by the council under authority of *The School Attendance Act* and *The Adolescent School Attendance Act*.

Rev. Stat., cc. 347, 6.

(6) The payments to the boards under this section shall be made on the warrant of the proper inspector. Payments to boards.

(7) Each section in a township which forms part of a consolidated school section shall for the purposes of subsection 1 be counted as a separate section. R.S.O. 1937, c. 357, s. 112 (5 - 7). Township grant for consolidated schools.

116. Where part of the salary of a teacher in a rural school for any reason does not become payable or is withheld from him under the provisions of this Act, the sums payable respectively by the county, the township or townships, and the ratepayers and out of the legislative grant, on account of such salary, shall abate in the proportions in which they were respectively liable for the whole. R.S.O. 1937, c. 357, s. 113. Abatement of amounts proportionately.

117. All moneys required to be levied and collected and applied to the salaries of teachers shall be paid to the treasurers of the respective boards from time to time as may be required by them. R.S.O. 1937, c. 357, s. 114. Amounts required to be raised to be paid over as required.

118.—(1) Subject to sections 22 to 28, the provisions of sections 115 and 116 shall apply to consolidated schools, but the amount of the township grant provided for by section 115 shall not be less than the total amount which would be paid to the boards of trustees of the school sections included in the consolidated school section had the sections not been consolidated, and if more teachers are employed in the consolidated school than were employed in the school sections, the grant shall be as for a principal teacher for each school consolidated, and as for an assistant teacher for each teacher in excess of the number of teachers employed in the sections at the time when consolidation took place. R.S.O. 1937, c. 357, s. 115 (1); 1947, c. 88, s. 6. Consolidated schools.

(2) Where upon the formation of a consolidated school section a public school section has been divided and each of the provisional sections so formed has become a part of a consolidated school section, the township grant for the public school section divided shall be apportioned between the consolidated school sections according to the assessment of each of the provisional sections. Distribution of township grant on division of sections on forming consolidated school.

(3) Where one of the provisional sections becomes part of a consolidated school section and the remaining provisional section is continued as an independent section the whole of the township grant shall be paid to such independent section until it becomes part of a consolidated school section, and thereupon the grant shall be distributed as provided in subsection 2. When grant to be paid to independent section.

Where remaining provisional section merged.

(4) Where a provisional section which has not been included in a consolidated school section ceases to remain an independent section and becomes a part of an adjoining school section by rearrangement of boundaries or by the formation of a union school section, the township grant formerly paid to the school section of which the provisional section formed a part shall be paid to the consolidated school section, or if more than one consolidated school section has been formed the township grant shall be apportioned to each of such consolidated school sections as provided in subsection 2.

Township grant not to be payable to consolidated school section including urban municipality.

(5) Where a consolidated school section includes an urban municipality the consolidated school section shall not share in the township grant to be levied and applied under section 115, and the portion of the township included in the consolidated school area shall be exempt from taxation for the purpose of raising the amount necessary for the payment of such township grant. R.S.O. 1937, c. 357, s. 115 (2 - 5).

INSPECTORS

Minister to determine number of inspectors.

119.—(1) The Minister shall determine the number of inspectors to be appointed throughout the Province, and he shall also define the limits of the inspectorate of each inspector except in the case of a city inspector.

In cities where several inspectors.

(2) Where more inspectors than one are appointed in a city, the board of education or board of public school trustees, as the case may be, shall, subject to the approval of the Minister, define the limits of the inspectorate of each inspector, and subject to the like approval may assign to each inspector such duties in addition to those prescribed by the regulations as the board may deem expedient. R.S.O. 1937, c. 357, s. 116.

Appointment in cities where no duties outside.

120.—(1) Where the duties of an inspector are confined entirely to the public schools of a city, the appointment of such inspector shall be made by the board of education or the public school board, as the case may be, of the city.

Appointments elsewhere to be made by Crown.

(2) The appointment of all other inspectors shall be made by the Lieutenant-Governor upon the recommendation of the Minister, and they shall hold office during pleasure.

Appointments to fill vacancies in cities.

(3) Where the Minister directs the appointment of an additional inspector in a city, or when a vacancy occurs in the office of city inspector, an inspector shall be appointed by the board by resolution passed at the first meeting held after receiving the direction or after the vacancy occurs.

Resolution to be sent to Minister.

(4) The secretary of the board shall forthwith transmit a copy of the resolution, certified by the chairman, to the Minister by registered post.

(5) Where a public school board or board of education of a city for one month after a vacancy occurs or after the Minister has directed the appointment of an inspector neglects to make an appointment the appointment may be made by the Minister.

Appoint-
ment by
Minister on
neglect of
board.

(6) Every appointment of a city inspector shall be subject to ratification by the Minister, and if not so ratified within one year after he enters upon his duties the engagement of the inspector shall terminate at the end of that period and the board shall appoint another inspector as provided for by this Act.

Ratification
of appoint-
ment by
Minister.

(7) Where more inspectors than one are appointed in a city the board may, subject to the approval of the Minister, designate one of the inspectors to be chief inspector, and, subject also to the approval of the Minister, the board may assign such duties in addition to those prescribed in the regulations to the chief inspector and to each inspector, as the board may deem expedient.

Chief in-
spector for
city, assign-
ment of
duties.

(8) When the number of teachers in a city occupying separate classrooms with separate registers becomes one hundred, the public school board or the board of education, as the case may be, of the city shall appoint a city inspector.

Where
inspector to
be appointed
for city
only.

(9) In a city where the number of teachers occupying separate classrooms with separate registers is fewer than one hundred, the public school board or board of education, as the case may be, of the city may make application to the Minister for power to appoint a city inspector and the Minister shall have authority to approve of the request. R.S.O. 1937, c. 357, s. 117.

Where city
inspector
may be
appointed
elsewhere.

121.—(1) An inspector may be suspended or removed from office by the Minister for neglect of duty, misconduct, inefficiency or physical infirmity.

Suspension
or removal
of inspector
by Minister.

(2) The board of a city by which an inspector is appointed may suspend the inspector for neglect of duty, misconduct, inefficiency or physical infirmity, and the secretary of the board of the city shall forthwith report the suspension to the Minister in writing, with a statement of the reasons therefor, and the Minister may remove or confirm the suspension or may remove the inspector from office, and the decision of the Minister shall be final.

By board.

(3) The Minister may give such direction as to the payment or forfeiture of the salary of the inspector for the period of suspension as he may think just. R.S.O. 1937, c. 357, s. 118.

Direction as
to payment
or forfei-
ture of
salary.

122.—(1) The Minister shall have power to make regulations from time to time governing the qualifications of inspec-

Regulations
as to quali-
fication.

tors, and he shall also have power to make provision for courses of training for inspectors.

Inspector removed not to be employed.

(2) No person shall be appointed or act as an inspector of public schools who has been removed from the office of inspector by the Minister.

Qualification of city inspector.

(3) An inspector appointed by the board of education or the public school board, as the case may be, of a city shall hold the qualifications for an inspector prescribed by the regulations and shall be required to take such courses of training as may be required under the regulations.

Whole time to be given.

(4) An inspector shall not accept any other office or employment and may not follow any other profession or calling during his tenure of office as an inspector, without the approval of the Minister. R.S.O. 1937, c. 357, s. 119.

Duties of inspectors.

123.—(1) Subject to the regulations it shall be the duty of every public school inspector,

- (a) to bring about improvement in the work done in the classrooms by inspiring the teachers and pupils and by sympathetically assisting the teachers to improve their practice;
- (b) to assist and co-operate with school boards to the end that the public schools may best serve the needs of the children in each community;
- (c) to visit in every year each school room in his inspectorate, having a separate register, as often and for such length of time on each occasion as the Minister may direct;
- (d) to prepare a report of every such visit in the form prescribed by the regulations;
- (e) to forward within ten days after such visit a copy of every such report to the board within whose jurisdiction the school is situate;
- (f) to make a general annual report as to the performance of his duties and the condition of the schools in his inspectorate to the Minister, and also to the board of the city in the case of a city inspectorate;
- (g) to report to the medical officer of health of the municipality any case in which the school buildings or premises are found to be in an unsanitary condition;
- (h) to furnish the Minister with information respecting any public school in his inspectorate whenever required to do so;

(i) to withhold his order for the amount apportioned from the legislative grant and to order the withholding of the municipal grant,

(i) where any school has been kept open for less than six months in the year, except where the school has been closed by order of the medical officer of health or local or provincial health authorities on account of the prevalence of any communicable disease,

(ii) where the board fails to transmit promptly the annual or other school returns properly filled up,

(iii) where the board fails to comply with this Act or with the regulations,

(iv) where the teacher uses or permits to be used as a text-book, any book not authorized by the regulations,

and in every case to report to the board and to the Minister his reasons for so doing;

(j) to discharge such other duties as may be required by the Minister or regulations;

(k) on retiring from office to deliver to his successor his official correspondence and all school papers in his custody on the order of the Minister.

(2) Every inspector shall be directly responsible to the Minister for the due performance of his duties, and, subject to the regulations, shall obey the direction of the board in the case of a city inspectorate. Responsibility to Minister.

(3) Where an inspector requires the testimony of a witness as to any fact alleged in any complaint or appeal made to him or to the Minister he may administer an oath to the witness and he shall have the like power to take evidence and to enforce the attendance of witnesses and the production of documents as a court has in civil cases. R.S.O. 1937, c. 357, s. 120. Power to take evidence on oath.

124.—(1) The salaries and travelling and other expenses of all inspectors, except city inspectors, shall be fixed by the Minister, and shall be paid by the Treasurer of Ontario out of the moneys appropriated for that purpose, at such times and in such manner as the Minister may direct. How salaries to be fixed.

(2) The salary and travelling and other expenses of a city inspector shall be fixed by the board of education or the board of public school trustees, as the case may be, and shall be payable by the treasurer of the board. R.S.O. 1937, c. 357, s. 121 (1, 2). In cities.

ALLOWANCE TO ARBITRATORS AND INSPECTORS

Arbitrators
to award
costs.

125. Arbitrators in making their award shall, among other things, determine the liabilities of the parties concerned for the costs of the arbitration, and such determination shall be final and conclusive. R.S.O. 1937, c. 357, s. 122.

Allowance
to arbitra-
tors.

126. Every person other than an inspector engaged as arbitrator on any matter arising under this Act shall be paid \$4 a day and travelling expenses. R.S.O. 1937, c. 357, s. 123.

APPEALS FROM DIVISION COURT DECISIONS

Appeals
from
division
court
judgment.

127.—(1) In an action between a teacher and a board under this Act the judge of the division court in which the action is tried may, at the request of either party, order the entering of judgment to be delayed for a sufficient time to enable such party to apply to the Minister to appeal.

Appeal by
Minister.

(2) The Minister may, within one month after the rendering of judgment, appeal from the decision of the judge to the Court of Appeal, by serving notice in writing of such appeal upon the clerk of the division court appealed from, which appeal may be entitled "The Minister of Education for Ontario, Appellant, in the matter between (*naming the parties*)".

Trans-
mission of
papers to
Supreme
Court.

(3) The judge shall thereupon transmit to the office of the Registrar of the Supreme Court at Toronto, certified under his hand, the summons and other proceedings in the action, together with the evidence and his judgment thereon, and all objections made thereto, and he shall also certify under his hand to the Minister a true copy of the summons, proceedings, evidence, judgment and objections.

Stay of
proceedings.

(4) After service of the notice of appeal no further proceedings shall be had until the appeal has been determined.

Direction
to the
court below.

(5) The Court of Appeal shall give such order or direction to the court below touching the judgment to be given as the circumstances require, and upon receipt of such order or direction the judge shall proceed in accordance therewith.

Costs.

(6) The Court of Appeal may also in its discretion award costs against the party on whose behalf an unsuccessful appeal is taken which shall be certified to and form part of the judgment of the court below, and such costs and any costs incurred by such party may be paid by the Minister and charged as contingent expenses of his office.

Right of
appeal.

(7) Notwithstanding anything herein contained, any party to an action in which the plaintiff claims more than \$100 shall

have the same right of appeal as in an action in the division court. R.S.O. 1937, c. 357, s. 124.

PENSIONS, ETC.

128. Where a teacher, inspector, officer or other employee of a board whose time is entirely devoted to the work of the board retires, having reached the age of sixty years, or after having been for twenty years in the service of the board, the board, in the case of a teacher, city inspector, officer or other employee, may grant him an annual allowance not exceeding the salary which he was receiving at the time of retirement, or may make a grant to him by way of gratuity of a sum not exceeding the present value of such annual allowance computed on the basis of interest at the rate of four per cent per annum. R.S.O. 1937, c. 357, s. 129.

Retiring allowance to teachers, officers and inspectors.

129.—(1) The board, by resolution, may provide, by arrangement either with His Majesty pursuant to the *Goverment Annuities Act* (Canada) or with an insurer licensed under *The Insurance Act*, or with both His Majesty and an insurer as aforesaid, pensions for employees or any class thereof and their wives and children.

Pensions. R.S.C. 1927, c. 7. Rev. Stat., c. 183.

(2) In this section, "employee" does not include a teacher or an inspector.

Interpretation

(3) No resolution passed under this section shall become operative until approved by the Minister, nor shall any such resolution so passed and approved be amended or repealed without the approval of the Minister.

Approval of Minister.

(4) The board shall make such payments or contributions to the scheme as are provided for in the resolution.

Contributions by board.

(5) The board shall deduct from the salary, wages or other remuneration of every employee to whom the scheme is applicable, the amount which the employee is required by the resolution to contribute. 1950, c. 65, s. 10 (1), *part*.

Deduction of contributions.

130.—(1) The board, by resolution, may establish a system of sick leave credit gratuities and payments for the regular attendance of employees or any class thereof.

Sick leave credits.

(2) No resolution passed under subsection 1 shall become operative until approved by the Minister, nor shall any resolution so passed and approved be amended or repealed without the approval of the Minister. 1950, c. 65, s. 10 (1), *part*.

Approval of Minister

INSTRUCTION IN AGRICULTURE, INDUSTRIAL ARTS AND CRAFTS, AND HOME ECONOMICS

Engage-
ment of
instructor
in agricul-
ture, etc., by
township
council.

131.—(1) The council of a township may engage the services of a person holding the degree of Bachelor of the Science of Agriculture, or other certificate of qualification, from the Ontario Agricultural College and approved of by the certificate of the Minister, or of an instructor qualified as required by the regulations to give instruction in agriculture, industrial arts and crafts, and home economics in the public schools of the municipality, and the council may levy and collect from the ratepayers of the municipality who are public school supporters such sums as may be necessary to pay the salaries of such instructors and all other expenses connected therewith.

Courses of
instruction.

(2) The courses of instruction shall be those prescribed by the regulations.

Engage-
ment by
board.

(3) The board of a rural school section or of a union school section, or a number of such boards, may severally or jointly engage the services of any person qualified as provided in sub-section 1 for the purpose of giving similar instruction to the pupils of their respective schools.

Course to
be open
to all
residents.

(4) The courses of instruction in agriculture, industrial arts and crafts, and home economics shall, as far as practicable, be open to all residents of the school section or municipality. R.S.O. 1937, c. 357, s. 131.

Classes in
urban
schools.

132.—(1) The high school board, the public school board and the separate school board, or the board of education and the separate school board, or any of such boards in a city, town or village, may enter into agreements with one another for the formation and carrying on of classes for instruction in agriculture, industrial arts and crafts, and home economics in connection with the work of the schools under the management of the boards, and for providing suitable buildings, apparatus and appliances for carrying on such classes and the appointment of teachers therefor, and the proportion in which the cost thereof is to be borne by each board.

Management
under
committee.

(2) The boards may delegate the management and control of such classes and the buildings, apparatus and appliances used in connection therewith to such committee or committees as they may see fit, composed of members of the boards or of one or more of them, and such committees may, if the cost thereof has been included in the estimate mentioned in sub-section 4, procure from time to time such buildings, apparatus, appliances and material as may be deemed necessary for carrying on such classes, and may engage teachers therefor.

(3) The members of any such committee shall hold office during the pleasure of the board by which they are appointed. Duration of office.

(4) The committees shall annually, on or before the 1st day of February, furnish to each board an estimate of the amount required for carrying on such classes during the then current year, and the boards shall include in the estimates to be furnished to the council of the city or town the proportion of the amount so required which is to be provided by the board, and the same shall be included in the school rates of the municipality and levied and collected therewith. R.S.O. 1937, c. 357, s.132. Providing for cost of instruction.

OFFENCES AND PENALTIES

133. Where a teacher negligently or wilfully permits a book which is not authorized by the regulations or prescribed by the Minister to be used as a text-book by the pupils of his school, the Minister, on the report of the inspector, may suspend the teacher, and the board may also deduct from his salary a sum equal to so much of the legislative grant as has been withheld on account of the use of the book, or any less sum in its discretion. 1945 (2nd Sess.) c. 8, s. 24. Use of unauthorized text-books.

134. Any person who wilfully makes a false declaration of his right to vote at a school meeting or at an election of trustees shall be guilty of an offence and shall be liable to a penalty of not less than \$5 and not more than \$10. R.S.O. 1937, c. 357, s. 134. False declaration as to right to vote.

135. A trustee who refuses to serve after being duly elected with his own consent shall be guilty of an offence and shall be liable to a penalty of \$5, and a person elected as a trustee who as such attends any meeting of the board after becoming disqualified shall be guilty of an offence and shall be liable to a penalty of \$20 for every meeting so attended. R.S.O. 1937, c. 357, s. 135. Refusing to serve and acting when disqualified.

136. Every person elected as trustee who has not refused to accept the office and who at any time refuses or neglects to perform its duties shall be guilty of an offence and shall be liable to a penalty of not more than \$20. R.S.O. 1937, c. 357, s. 136. Penalty for refusal to perform duties.

137.—(1) A public school trustee shall not be eligible for appointment, Disqualification of trustees as teachers and inspectors.

(a) as a public school inspector; or

(b) as a teacher by the board of which he is a member or by any separate, continuation or high school

board having jurisdiction in the whole or any part of the area in which the board of which he is a member has jurisdiction.

Disqualifi-
cation of
teachers as
trustees.

(2) A public school teacher shall not be eligible to be a member of the public school board with which he has a teacher's contract, nor to be a member of any separate, continuation or high school board having jurisdiction in the whole or any part of the area in which the board with which he has a teacher's contract has jurisdiction.

Disqualifi-
cation of
inspectors.

(3) A public school inspector shall not be eligible to be a teacher or trustee of a public, separate, continuation or high school while he holds the office of inspector. 1950, c. 65, s. 11.

Seat vacated
by conviction
for crime,
etc.

138. If a trustee is convicted of any indictable offence or becomes mentally ill, or, without being authorized by resolution entered upon the minutes, absents himself from the meetings of the board for three consecutive months, or ceases to be a resident within the municipality, or in the case of a city within one mile of the city or within the school section for which he is a trustee, he shall *ipso facto* vacate his seat, and subject to subsection 2 of section 83, the remaining trustee or trustees shall declare his seat vacant and forthwith order a new election; provided that where a trustee is convicted of an indictable offence the vacancy shall not be filled until the time for taking any appeal which may be taken from the conviction has elapsed, or until the final determination of any appeal so taken, and in the event of the quashing of the conviction the seat shall be deemed not to have been vacated. R.S.O. 1937, c. 357, s. 138; 1938, c. 35, s. 33.

Seat vacated
by interest
in contract
with board.

139.—(1) A trustee shall not enter into any contract, agreement, engagement or promise, either in his own name or in the name of another, and either alone or jointly with another in which he has any pecuniary interest, profit or promised or expected benefit with the board of which he is a member, or have any pecuniary claim upon or receive compensation from the board for any work, engagement, employment or duty on behalf of the board, and every such contract, agreement, engagement or promise shall be null and void, and a trustee violating the provisions of this section shall *ipso facto* vacate his seat.

When seat
may be
declared
vacant.

(2) On the complaint of two ratepayers of the municipality or section or of the remaining trustee or trustees, the judge of the county or district court shall, on proof of the facts, declare the seat vacant, and, subject to subsection 2 of section 83, the remaining trustee or trustees shall forthwith order a new election. R.S.O. 1937, c. 357, s. 139 (1, 2).

(3) Nothing in this section shall prevent a trustee receiving payment as provided by subsection 25 of section 15 or by section 49, or prevent the board of a rural section from allowing the secretary or treasurer such compensation for his services as may be approved at the annual meeting or at a special meeting of the ratepayers and duly entered in the minutes. R.S.O. 1937, c. 357, s. 139 (3), *amended*. Exception.

(4) Where a complaint is made in writing to the inspector by any two ratepayers of a rural school section or by the other trustee or trustees thereof, that any trustee of the school section was not, at the time of his election, qualified to be elected, or is not competent to act, or is disqualified from acting, the inspector may file the complaint with the judge of the county or district court and on proof that the complaint is based on fact, the judge shall declare the seat vacant, and a new election shall forthwith be held. R.S.O. 1937, c. 357, s. 139 (4). Complaint that trustee not qualified to act.

140.—(1) No person shall be disqualified from being a member of a board, or from sitting and voting on such board by reason only of his being proprietor of or otherwise interested in a newspaper or other periodical publication subscribed for by the board, or in which an advertisement is inserted in the regular course of business, if the advertisement or subscription is paid for at the usual rate, but such member shall not be entitled to vote where his own account is in question. Newspaper proprietors inserting official advertisements not disqualified from sitting on boards, etc.

(2) A trustee who is a shareholder, officer, director or other employee of a company shall not vote on any question affecting the company in respect to any dealings or contract between the company and the board of which he is a member. R.S.O. 1937, c. 357, s. 140. Contracts, etc., voting on.

141. Any person who wilfully interrupts or disquiets the proceedings of a school meeting, or a public school, by acting in a disorderly manner or by making a noise either within the place where the meeting is held or the school is kept or so near thereto as to interfere with the proceedings of the meeting or order of exercises of the school shall be guilty of an offence and shall be liable for each offence to a penalty of not more than \$20. R.S.O. 1937, c. 357, s. 141. Penalty for disturbing a school or school meeting.

142. A chairman who neglects to transmit to the inspector a minute of the proceedings of any annual or other rural school meeting over which he has presided within ten days after the holding of the meeting shall be guilty of an offence and liable to a penalty of not more than \$5. R.S.O. 1937, c. 357, s. 142. Penalty for chairman neglecting to report to inspector.

Liability
for neglect
to take
security.

143. If a board refuses or neglects to take proper security from the treasurer or other person to whom it entrusts school moneys and any school moneys are forfeited or lost to the municipality, section or board in consequence of the refusal or neglect, every member of the board shall be personally liable for such moneys, and the same may be recovered by the board or any ratepayer interested therein suing on behalf of himself and all ratepayers of the municipality or section interested in any court of competent jurisdiction; but no member shall be liable if he proves that he made reasonable efforts to procure the taking of such security. R.S.O. 1937, c. 357, s. 143.

Secretary-
treasurer
or trustee,
refusing
to deliver
up books
and moneys.

144. A secretary or a treasurer and a person having been such secretary or treasurer, and a trustee or other person who has in his possession any book, paper, chattel or money which came into his possession as such secretary, treasurer, trustee or otherwise, shall not wrongfully withhold or neglect or refuse to deliver up or account for and pay over the same or any part thereof to the person and in the manner directed by the board or by other competent authority. R.S.O. 1937, c. 357, s. 144.

Summons
for appear-
ance.

145.—(1) Upon application to a judge of the county or district court by the board or by two ratepayers supported by affidavit showing such wrongful withholding or refusal, the judge may summon such secretary, treasurer, trustee or person to appear before him at a time and place appointed by him.

Service of
summons.

(2) Any bailiff of a division court, upon being requested so to do, shall serve the summons or a true copy thereof on the person complained against personally or by leaving the same with a grown-up person at his residence.

Hearing of
complaint
and order
thereon.

(3) At the time and place so appointed, the judge, being satisfied that service has been made, shall in a summary manner and whether the person complained against does or does not appear, hear the complaint, and if he is of opinion that it is well founded, the judge shall order the person complained against to deliver up, account for and pay over such book, paper, chattel or money by a day to be named by the judge in the order, together with such reasonable costs incurred in making the application as the judge may allow.

Effect of
non-com-
pliance with
judge's
order.

(4) In the event of non-compliance with the order, the judge may order the person complained against to be arrested forthwith by the sheriff of any county or district in which he may be found, and to be committed to the common jail of the county in which he resides, there to remain without bail until the judge is satisfied that he has delivered up, accounted for or paid over the book, paper, chattel or money in the manner directed by the board or other competent authority.

(5) Upon proof of his having so done, the judge shall make an order for his discharge and he shall be discharged accordingly. Discharge on compliance with order.

(6) Upon proof that such person has done all in his power to deliver up, account for or pay over the book, paper, chattel or money as directed, the judge may order his discharge on such terms or conditions as he may deem just. Discharge on terms.

(7) Such proceedings shall not impair or affect any other remedy which the board or any other person may have against the person complained against or against any other person. Other remedy not affected.
R.S.O. 1937, c. 357, s. 145.

146.—(1) Sections 144 and 145 shall apply to the case of any person who has in his possession any book, paper, chattel or money which came into his possession as secretary, or treasurer, or trustee, or otherwise, of a board of trustees of a school section or urban municipality which has been dissolved by reason of the annexation of the school section or urban municipality to a city, and every such person shall deliver up, account for and pay over every such book, paper, chattel and all such money to the person and in the manner directed by the board of education, the board of public school trustees or other competent authority in the city to which the school section or urban municipality has been annexed, and in default of his so doing, proceedings may be taken against him by the urban board or by two ratepayers of the city in the same manner as in the case provided for by section 145, and that section shall *mutatis mutandis* apply. Compelling delivery of books, money, etc., on dissolution of school corporation.

(2) Subsection 1 shall apply to every person who has received from such secretary, treasurer, trustee or other person any book, paper, chattel or money, which by subsection 1 it is declared to be the duty of such secretary, treasurer, trustee or other person to deliver up, and the like proceedings may be taken against such first-mentioned person. R.S.O. 1937, c. 357, s. 146. Application of subs. 1.

147. It shall be the duty of the board and of the secretary and the treasurer to furnish the auditors with any papers or information in their or his power which may be required of them or him relating to the school accounts, and any member of the board or a secretary or treasurer who neglects or refuses so to do shall be guilty of an offence and liable to a penalty of not more than \$20. R.S.O. 1937, c. 357, s. 147. Penalties on trustees refusing information, etc., to auditor.

148. If the board of a rural school section neglects to transmit to the inspector, in accordance with the regulations, a correct and verified statement of the attendance of pupils Penalty for neglect to make returns.

in each of the schools under its charge during the twelve months then immediately preceding, the section shall not be entitled to its share of the legislative grant for such twelve months, and every member of the board so neglecting shall be personally responsible for the amount of the loss of such share. R.S.O. 1937, c. 357, s. 148.

Penalty for
delaying
yearly
reports.

149. If the board of any school section neglects to prepare and forward such annual statement to their county inspector by the 15th day of January in every year, each of them shall, for every week thereafter until such statement has been prepared and presented, be guilty of an offence and liable to a penalty of not more than \$5. R.S.O. 1937, c. 357, s. 149.

Penalty
for false
school
reports and
registers.

150. If a trustee knowingly signs a false report, or if a teacher keeps a false school register or makes a false return, he shall be guilty of an offence and, for every offence, shall be liable to a penalty of not more than \$20. R.S.O. 1937, c. 357, s. 150.

Clerk
neglecting
or refusing
to perform
duties.

151. If a township clerk neglects or refuses to prepare and furnish the map of the school sections of his municipality as required by this Act, or if he neglects for one month to make any return required by this Act, he shall be guilty of an offence and liable to a penalty of not more than \$10. R.S.O. 1937, c. 357, s. 151.

Penalty for
not calling
school
meetings.

152. If an annual or other rural school meeting has not been held for want of the proper notice, every trustee or other person whose duty it was to give the notice shall be guilty of an offence and liable to a penalty of \$5. R.S.O. 1937, c. 357, s. 152.

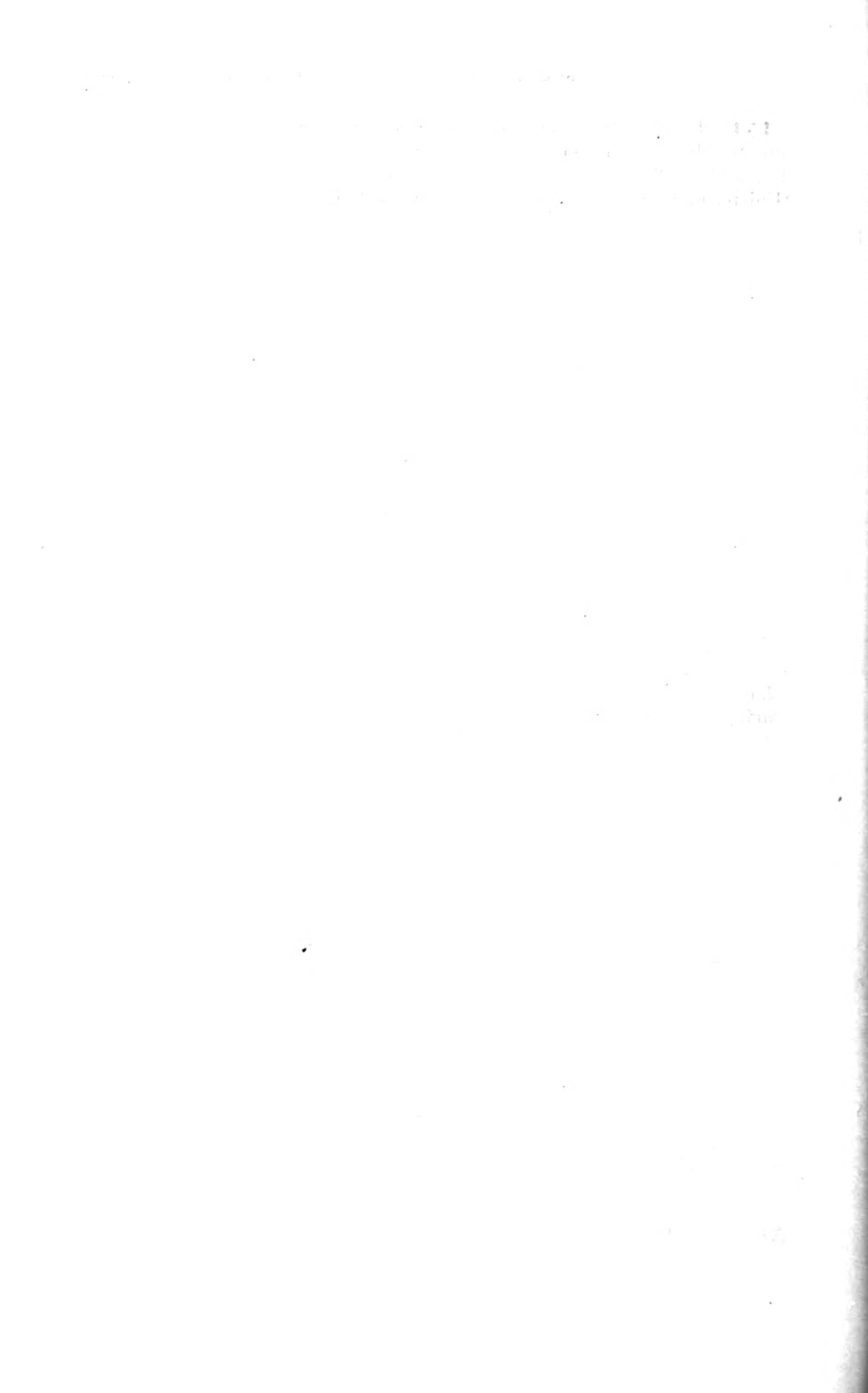
(NOTE.—*For liability of a trustee, teacher, inspector or officer of the Department of Education who is concerned or interested in the sale of books or supplies, and anyone employing or paying him, see The Department of Education Act, Rev. Stat., c. 94.*)

Penalties
for not
maintain-
ing school
as required
by Act.

153. Where a board makes default in maintaining a public school during the whole school year, or such part thereof as this Act requires, every member of the board shall be guilty of an offence and liable to a penalty of \$5 for every week during which the default continues, unless he proves that he did everything in his power to prevent the default. R.S.O. 1937, c. 357, s. 153.

154. The penalties imposed by or under the authority of this Act shall be recoverable under *The Summary Convictions Act*, and shall be applied to such school purposes as the Minister may direct. R.S.O. 1937, c. 357, s. 154.

Recovery
and appli-
cation of
penalties.
Rev. Stat.,
c. 379.



CHAPTER 317

The Public Service Act

1.—(1) In this Act,

Interpre-
tation.

- (a) "Board" means Public Service Superannuation Board;
- (b) "child" includes adopted child and step-child;
- (c) "civil servant" means a person appointed to the service of the Crown by the Lieutenant-Governor in Council or by a minister but does not include the persons or classes of persons designated by the regulations made under Part I, and "civil service" has a corresponding meaning;
- (d) "Commission" means Civil Service Commission;
- (e) "Crown" means Crown in right of Ontario;
- (f) "employee" means a person who is appointed a civil servant by the Lieutenant-Governor in Council but does not include a person who is entitled to benefit from any other superannuation fund to which the Crown contributes, and "employed" has a corresponding meaning;
- (g) "Fund" means Public Service Superannuation Fund;
- (h) "Treasurer" means Treasurer of Ontario.

(2) For the purposes of Part II, where a computation involves part of a year, the computation shall be made on a ^{Computation of part of year.} monthly basis, and

- (a) any part of a month less than 15 days shall be disregarded; and
- (b) any part of a month not less than 15 days shall be deemed to be a month. 1947, c. 89. s. 1.

PART I

THE PUBLIC SERVICE

2.—(1) The commission known as the Civil Service Commission is continued and shall consist of not more than three ^{Civil Service Commission.} persons appointed by the Lieutenant-Governor in Council, one of whom may be appointed chairman.

Duties.

- (2) The Commission shall,
- (a) examine and pass upon the qualifications of nominees for the civil service;
 - (b) assign nominees for the civil service and civil servants to classifications prescribed by the regulations and specify the salary payable;
 - (c) determine the value of perquisites granted to civil servants;
 - (d) study the organization and administration of the staffs of the departments and make such recommendations to the Lieutenant-Governor in Council as it deems proper with respect to,
 - (i) the organization and administration methods in any department,
 - (ii) the co-ordination of the work of the departments, and
 - (iii) generally, the improvement of the civil service;
 - (e) investigate and report to the Lieutenant-Governor in Council upon any matter relating to the civil service or a civil servant referred to it by the Lieutenant-Governor in Council; and
 - (f) present annually to the Lieutenant-Governor in Council a report upon the performance of its duties during the preceding fiscal year, which report shall be laid before the Assembly at the next session of the Legislature. 1947, c. 89, s. 2.

Appoint-
ments.

3.—(1) The Lieutenant-Governor in Council may appoint such persons to the civil service as he may deem requisite or as may be required under any Act. 1947, c. 89, s. 3 (1).

Temporary
appoint-
ments.

(2) A minister may appoint such persons to the civil service in any department over which he presides as he may deem requisite or as may be required under any Act, but any such appointment shall not be for a longer period than one year. 1947, c. 89, s. 3 (2); 1949, c. 95, s. 12 (1).

Certifica-
tion by
Commission.

(3) No person shall be appointed as a civil servant until the Commission has certified to the Lieutenant-Governor in Council or the minister, as the case may be, that the person is qualified and has assigned him to a classification and specified the salary to which he is entitled in accordance with the regulations. 1947, c. 89, s. 3 (3).

4.—(1) Every civil servant shall before any salary is paid to him take and subscribe before the Clerk of the Executive Council or a person designated by the Lieutenant-Governor in Council, the oath of allegiance in the following form: Oaths of allegiance, office and secrecy.

I,, do swear that I will be faithful and bear true allegiance to His Majesty King George the Sixth (or the reigning sovereign for the time being), his heirs and successors according to law. So help me God.

and the oath of office and secrecy in the following form:

I,, do swear that I will faithfully discharge my duties as a civil servant and except as I may be legally authorized or required I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being a civil servant. So help me God.

1947, c. 89, s. 4 (1), *amended*.

(2) The Clerk of the Executive Council and the persons designated by the Lieutenant-Governor in Council to administer oaths shall keep records of the oaths that they administer. Record of oaths. 1947, c. 89, s. 4 (2).

5. Except as otherwise provided in section 6, subsection 2 of section 18 and section 34, every civil servant shall be retired upon attaining the age of 65 years. Age of retirement. 1947, c. 89, s. 5.

6.—(1) Where a civil servant or former civil servant, Special fitness.

- (a) has attained the age of 65 years; and
- (b) on account of his peculiar skill and fitness for his position it is in the public interest so to do,

the Lieutenant-Governor in Council may re-appoint him, but such re-appointment shall not be for a longer period than one year at a time and shall not be renewable for more than five years in all unless such re-appointment is to a different position and does not limit the possibilities of promotion of other civil servants.

(2) Every civil servant who was more than 70 years of age on the 1st day of March, 1948 may be re-appointed by the Lieutenant-Governor in Council, but any such re-appointment shall not be for a longer period than six months at a time and shall not be renewable for more than five years in all unless such re-appointment is to a different position and does not limit the possibilities of promotion of other civil servants. Civil servants over seventy. 1947, c. 89, s. 6.

7.—(1) A deputy minister shall have the general control of his department and shall have such other powers and perform such other duties as may be assigned to him by the Lieutenant-Governor in Council. Deputy minister, powers and duties of; 1947, c. 89, s. 7 (1).

power to
suspend;

(2) With the consent of his minister a deputy minister may suspend from employment any civil servant in his department who refuses or neglects to obey his directions. 1947, c. 89, s. 7 (2); 1948, c. 74, s. 1.

vacancy in
office.

(3) Where a deputy minister is absent or there is a vacancy in the office, the powers and duties of the deputy minister shall be exercised and performed by such civil servant as may be designated by the minister of the department. 1947, c. 89, s. 7 (3).

Debts of
civil
servants.

8. When a creditor of a civil servant files with the Treasurer,

- (a) a notice that a debt or money demand of not less than \$25, not being a claim for damages, is due and owing to him from a civil servant, either on a judgment or otherwise; and
- (b) such proof as the Treasurer may require that the debt or money demand is owing,

the Treasurer may deduct from the salary of the civil servant or from any money owing to him from the Crown, such amount as the Treasurer may see fit in the circumstances and pay the amount to the creditor in discharge or partial discharge of the debt or money demand. 1947, c. 89, s. 8.

Regula-
tions.

9. The Lieutenant-Governor in Council, or the Commission subject to the approval of the Lieutenant-Governor in Council, may make regulations,

- (a) prescribing the procedure to be followed in the appointment of civil servants;
- (b) designating the appointees or classes of appointees who shall not be civil servants;
- (c) prescribing the method of classifying, re-classifying and promoting civil servants and of increasing the remuneration of civil servants and of transferring civil servants from one department to another;
- (d) prescribing a schedule of classifications for civil servants, including qualifications, duties and salaries;
- (e) providing for the time and manner of payment of the salaries of civil servants;
- (f) prescribing the hours of service for civil servants;
- (g) providing for a system of credits for the regular attendance of civil servants and for the payment to a person who has ceased to be a civil servant, or to his

personal representative, of an amount equal to the value or a portion of the value of his credit;

(h) providing for the granting of leave of absence to civil servants;

(i) for regulating the conduct of civil servants, including the imposing of penalties by fine, suspension, demotion or otherwise;

(j) providing for the establishment of advisory, joint or departmental councils or committees and prescribing the powers and duties thereof;

(k) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1947, c. 89, s. 9.

10. The cost of administration of this Part shall be payable out of such moneys as may be appropriated therefor by the Legislature. 1947, c. 89, s. 10. Cost of administration.

PART II

SUPERANNUATION

11.—(1) The board known as the Public Service Superannuation Board is continued and shall consist of three members appointed by the Lieutenant-Governor in Council, one of whom shall be the representative of and employed in the civil service. Board, appointment of.

(2) The Board shall be responsible for the administration of this Part to the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant-Governor in Council. 1947, c. 89, s. 11. Administration of Part II.

12.—(1) The fund known as the Public Service Superannuation Fund is continued and the account in the books of the Treasurer known as the Public Service Superannuation Fund Account is continued. Fund continued.

(2) The Treasurer shall continue to be the custodian of the Fund. 1947, c. 89, s. 12 (1, 2). Treasurer to be custodian.

(3) The Fund shall consist of the amounts contributed by employees and the amounts credited to the Fund out of the Consolidated Revenue Fund or otherwise in accordance with law. 1947, c. 89, s. 12 (3), *amended*. Make-up of Fund.

(4) The Fund, less such amounts as may be necessary to meet current expenditures, shall, upon resolution of the Board, Investment of Fund.

be invested by the Treasurer in bonds of the province of Ontario or other securities guaranteed by the Province of Ontario.

Records.

(5) Records shall be kept by the Treasurer showing a separate account for each contributor to the Fund and for each beneficiary.

Audit.

(6) The Fund shall be audited by the provincial Auditor or by such other auditor as the Lieutenant-Governor in Council may appoint, and the auditor shall make an annual report in respect of the preceding fiscal year to the Lieutenant-Governor in Council and the report shall be laid before the Assembly at the next session of the Legislature. 1947, c. 89, s. 12, (4-6).

Employees' contributions.

13.—(1) Every employee employed before the 1st day of March, 1948, shall contribute to the Fund an amount equal to four per cent of his salary. 1947, c. 47, s. 13 (1).

Idem.

(2) Every employee employed on or after the 1st day of March, 1948, whose salary is less than \$1,500 shall contribute to the Fund an amount equal to five per cent of his salary.

Idem.

(3) Every employee employed on or after the 1st day of March, 1948, whose salary is \$1,500 or more shall contribute to the Fund an amount equal to six per cent of his salary.

Contributions to be deducted from salary.

(4) The contributions shall be deducted from the salary of the employee. 1947, c. 89, s. 13 (1 - 4).

Temporary employees permanently employed.

(5) Every person who,

(a) was employed temporarily and continuously up to the time of his appointment as an employee;

(b) gives notice in writing to the Board within three months after his appointment as an employee of his intention to pay the amount prescribed in clause c; and,

(c) pays, or agrees to pay by way of salary deductions, an amount equal to the amount that would have been payable by him had he been appointed as an employee at the date of his appointment as a temporary employee together with interest at three per cent per annum upon the amount so payable,

shall be entitled to credit for the period of service represented by the payments made in reckoning the amount of any allowance payable to him. 1947, c. 89, s. 13 (5), *amended*.

Extended application of subs. 5.

(6) Subsection 5 shall apply to every employee in respect of the period of his continuous non-contributory service. 1948, c. 74, s. 2, *part*.

(7) Subsection 5 shall not apply to persons who, after the 1st day of March, 1948, are appointed otherwise than as provided in section 3. Casual help.

(8) For the purposes of this section the Board shall have power to determine the date of the commencement of the employment of any person. 1947, c. 89, s. 13 (6, 7). Date of employment.

14.—(1) An employee who is granted leave of absence without salary shall within six months of the termination of the leave contribute to the Fund an amount equivalent to the deductions from his salary that would have been made if he had not been granted the leave, and where the leave, Leave of absence. contributions.

(a) exceeds one month; and

(b) is granted for a reason other than the illness of the employee,

he shall within the same period of time contribute to the Fund an additional equivalent amount which shall be in lieu of the credits provided for in section 15.

(2) Where an employee is granted leave of absence without salary for educational purposes, he may make the contributions mentioned in subsection 1, in which case the contributions shall be made within a period of time that is equivalent to or less than the period of the leave, or he may elect not to make such contributions, in which case he shall not be entitled to credit for the period of the leave. 1947, c. 89, s. 14. Leave for educational purposes.

15.—(1) When a contribution of an employee is credited to the Fund, an equivalent amount shall be credited to the Fund out of the Consolidated Revenue Fund. Employer's contributions.

(2) Where employees are engaged in a branch of the civil service having a special fund and the branch and fund are designated for the purpose of this subsection by the Lieutenant-Governor in Council, amounts equivalent to the contributions to the Fund of such employees shall be credited or paid to the Fund out of the designated fund in lieu of the credits to the Fund provided for in subsection 1. designated branches;

(3) Where the Lieutenant-Governor in Council designates a board or commission under section 36, amounts equivalent to the contributions to the Fund of employees who are members of the permanent staff of the board or commission shall be credited to the Fund out of such moneys as may be appropriated therefor by or for the board or commission in lieu of the credits to the Fund provided for in subsection 1. 1947, c. 89, s. 15. boards and commissions.

Interest.

16. There shall be credited to the Fund out of the Consolidated Revenue Fund interest at the rate of five per cent per annum compounded annually and such interest shall be made up at the close of each fiscal year upon the uninvested balance in the Fund at the commencement of the fiscal year. 1947, c. 89, s. 16.

Deficiency.

17. When the amount at the credit of the Fund is insufficient to meet the payments required under this Part, the deficiency shall be made up out of the Consolidated Revenue Fund. 1947, c. 89, s. 17.

Superannuation allowance, payable at 65;

18.—(1) Every employee who,

- (a) has attained the age of 65 years; and
- (b) has contributed to the Fund in respect of a period of 15 or more years,

shall be entitled to a superannuation allowance upon his retirement. 1947, c. 89, s. 18 (1).

payable at 70;

(2) Notwithstanding subsection 1, every employee who was more than 50 years of age on the 1st day of March, 1948, and who,

- (a) has attained the age of 70 years; and
- (b) has contributed to the Fund in respect of a period of 15 or more years or in respect of a period of 10 or more years in the case of an employee whose employment began before the 25th day of June, 1937,

shall be entitled to a superannuation allowance upon his retirement. 1947, c. 89, s. 18 (2); 1948, c. 74, s. 3.

payable at 60.

(3) Every employee who,

- (a) has attained the age of 60 years; and
- (b) has contributed to the Fund in respect of a period of 25 or more years,

shall be entitled to a superannuation allowance upon his retirement. 1947, c. 89, s. 19.

Disability allowance.

19.—(1) Every employee who,

- (a) has contributed to the Fund in respect of a period of 10 or more years;
- (b) is found by the Board by reason of mental or physical incapacity to be unable to perform his duties; and
- (c) is retired by the Lieutenant-Governor in Council,

shall be entitled to a disability allowance.

(2) The Board may review the case of any person receiving a disability allowance and if, in the opinion of the Board, the person has recovered sufficiently to perform his former or other duties the Board shall report the case to the Lieutenant-Governor in Council who may direct that he be offered re-employment. Review.

(3) When a person is offered re-employment under this section and does or does not accept the offer, his disability allowance shall cease. Re-employment.

(4) Where a person does not accept the offer of re-employment under this section and the amount of the allowance paid to him is less than the amount of his contributions with interest at three per cent per annum, the amount of the difference shall be paid to him in monthly instalments or otherwise as he may direct. 1947, c. 89, s. 20. Where offer not accepted.

20.—(1) The amount of every annual superannuation and disability allowance shall be computed by dividing by 50 the amount of the average annual salary of the employee during the three consecutive years of his service during which his salary was highest and multiplying the quotient by the total number of full years and any part of a year of continuous employment including any period of temporary employment where the employment has been continuous and the employee has contributed to the Fund in respect of such period, but not more than 35 years of service shall be reckoned. 1947, c. 89, s. 21 (1); 1948, c. 74, s. 4. Computation of superannuation and disability allowances.

(2) In no case shall the amount of an annual superannuation allowance be,

(a) more than \$3,000; or

(b) less than \$600, except where \$600 is greater than 70 per cent of the employee's average salary during the last three years of his service. Maximum and minimum superannuation allowance.

(3) In no case shall the amount of an annual disability allowance be,

(a) more than \$3,000; or

(b) less than \$600, except that where the employee receives another disability allowance, grant, award or pension and his disability allowance under this Part is less than \$600, the amount of his disability allowance under this Part shall be such that he will receive a total of not less than \$600 from both sources. 1947, c. 89, s. 21 (2), (3). Maximum and minimum disability allowance.

Compensation allowances.

21. An employee who,

- (a) has attained the age of 45 years and has contributed to the Fund in respect of 25 or more years;
- (b) has attained the age of 50 years and has contributed to the Fund in respect of 20 or more years; or
- (c) has attained the age of 55 years and has contributed to the Fund in respect of 15 or more years,

may, upon his dismissal, be granted a compensation allowance by the Lieutenant-Governor in Council. 1947, c. 89, s. 22 (1).

Compensation allowances, computation of,

22.—(1) The amount of every annual compensation allowance shall be computed by dividing by 70 the amount of the average annual salary of the employee during the three consecutive years of his service during which his salary was highest and multiplying the quotient by the total number of full years and any part of a year of continuous employment including any period of temporary employment where the employment has been continuous and the employee has contributed to the Fund in respect of such period, but not more than 35 years of service shall be reckoned. 1947, c. 89, s. 22 (2); 1948, c. 74 (4).

maximum.

(2) In no case shall the amount of an annual compensation allowance be more than \$2,000.

Increase in rate.

(3) When a person receiving a compensation allowance attains the earliest age at which he would have been eligible for a superannuation allowance under section 18 had he continued to be employed, the allowance shall be computed in the manner prescribed in section 20, but the period during which he was in receipt of a compensation allowance shall not be included in the computation.

Allowances to widows and children.

(4) The allowances to widows and children of persons who were in receipt of compensation allowances computed under subsection 1 shall be at the rate to which they would have been entitled had the employee died in the service.

Limitations of subss. 3, 4.

(5) Subsections 3 and 4 shall not apply in the case of a person who is granted a compensation allowance after the 1st day of March, 1948. 1947, c. 89, s. 22 (3-6).

Re-employment of superannuate.

23.—(1) Where a person who has reached retiring age and who has been granted a superannuation allowance is re-employed,

- (a) payment of the allowance shall be suspended during the period of re-employment;

- (b) he shall not make any contributions to the Fund during the period of re-employment; and
- (c) upon final retirement payment of the allowance shall be resumed.

(2) Where an employee who has been granted an allowance before attaining the age of 65 years is re-employed, payment of his allowance shall be suspended during the period of his re-employment but the period of re-employment shall be added to the period of his prior employment in determining the allowance to which he is entitled upon his retirement. 1947, c. 89, s. 23.

24.—(1) Where an employee who has contributed to the Fund in respect of a period of less than three years resigns or is dismissed, or dies leaving no widow and no child or children, an amount equal to the total of his contributions shall be paid to him in monthly instalments or otherwise as he may direct or to his personal representative, as the case may be. Re-employment generally.

(2) Where an employee who has contributed to the Fund in respect of a period of three or more years resigns or is dismissed and is not entitled to or granted any allowance, or dies leaving no widow and no child or children, an amount equal to the total of his contributions with interest at three per cent per annum shall be paid to him in monthly instalments or otherwise as he may direct, or to his personal representative, as the case may be. 1947, c. 89, s. 24, *amended*. Idem.

25. Where an employee,

- (a) having attained retiring age is retired; or
- (b) dies leaving a widow or a child or children,

before he is entitled to a superannuation allowance, twice the amount of his contributions with interest at three per cent per annum shall be paid to him in monthly instalments or otherwise as he may direct or to his widow or child or children, as the case may be. 1950, c. 66, s. 1. Retirement or death before superannuation.

26. Except as provided in section 27, where a retired employee who is in receipt of any allowance dies, an amount equal to the amount of his contributions, with interest at three per cent per annum, less the amount of the allowance paid to him, shall be paid to his personal representative. 1947, c. 89, s. 26. Death of person in receipt of allowance.

27.—(1) Where an employee who has contributed to the Fund in respect of a period of 10 or more years, or a former employee who is in receipt of any allowance, Allowance to widows, etc.

- (a) dies leaving a widow, an amount equal to,
 - (i) one-half of the allowance computed in the manner provided in section 20 but based on the employee's employment to the time of his death, or
 - (ii) one-half of the allowance that the former employee was receiving at the date of his death,

as the case may be, shall be paid to his widow during her life or during her widowhood, and where the widow dies or marries leaving a child or children who at the date of her death or marriage is or are under the age of 18 years, an amount equal to that paid to the widow shall be paid to the child or children until such age is attained; or

- (b) dies leaving no widow but leaving a child or children under the age of 18 years, an amount equal to,
 - (i) one-half of the allowance computed in the manner provided in section 20 but based on the employee's employment to the time of his death, or
 - (ii) one-half of the allowance that the former employee was receiving at the date of his death,

as the case may be, shall be paid to the child or children until such age is attained.

Where payments less than contributions.

(2) Where the payments made under subsection 1 or the amount of the allowance and any payments made under subsection 1, as the case may be, are less than the amount of the contributions of the employee with interest at three per cent per annum, the amount of the difference shall be paid to his personal representative. 1947, c. 89, s. 27 (1, 2).

Late marriages.

(3) Subsection 1 shall not apply to the widow of an employee or former employee if she married him after he attained the age of 60 years or after the date of his retirement or to the child or children of such marriage, but an amount equal to twice the amount of his contributions with interest at three per cent per annum, less the total amount of the allowance paid to him, if any, shall be paid to his widow or child or children, as the case may be. 1950, c. 66, s. 2.

Where employee is a widow.

(4) Where the employee or former employee is a widow, subsection 1 shall apply *mutatis mutandis* to her child or children. 1947, c. 89, s. 27 (4).

28.—(1) No payment shall be made out of the Fund until the Board has determined that the payment is in accordance with this Part. Payments out.

(2) Every payment out of the Fund shall be made by cheque of the Treasurer issued upon the requisition in writing of the chairman or secretary of the Board and every such requisition shall be sufficient authority for all purposes for the issue of the cheque so requisitioned. 1947, c. 89, s. 28. Idem.

29. Allowances shall be paid in monthly instalments. 1947, c. 89, s. 29. Payment of allowances.

30. The interest of any employee in the Fund and any allowance payable out of the Fund shall not be subject to garnishment, attachment, seizure or other process of law and shall not be assignable. 1947, c. 89, s. 30. No attachment, etc.

31. When a person who ceases to be an employee is indebted to the Crown, the amount owing shall be deducted from any payments to which he or his personal representative may be entitled under this Part. 1947, c. 89, s. 31, *amended*. When employee indebted to Crown.

32.—(1) This Part shall apply to,

(a) every sheriff; and

(b) every person or class of persons connected with the administration of justice who or that may be designated by the Lieutenant-Governor in Council,

Sheriffs, persons engaged in administration of justice;

whether paid by fees or salary or partly by fees and partly by salary.

(2) Where a sheriff or person or class of persons designated under subsection 1 is paid by fees or partly by fees, the contributions payable under this Part in respect of fees shall be computed upon the net income, within the meaning of *The Public Officers' Fees Act*, payable for the preceding year in respect of the office occupied by him and the allowances shall be computed accordingly. 1947, c. 89, s. 32. computation of contributions.

Rev. Stat., c. 312.

33.—(1) This Part shall apply to every jailer and jail employee, other than a jail surgeon, who is employed full-time on the permanent staff of a county or city jail, in respect of his service after the 30th day of June, 1948, except that the county or city, as the case may be, shall contribute to the Fund an amount equal to the contribution of the jailer or jail employee Jailers and jail employees.

in lieu of the contribution out of the Consolidated Revenue Fund provided for in section 15, and shall also pay into the Fund the contribution deducted from the salary of the jailer or jail employee.

Rates of contribution.

(2) Jailers and jail employees shall contribute to the Fund at the rates prescribed in subsections 2 and 3 of section 13.

Agreements respecting prior service.

(3) The Board and the council of a county or city that has established a jail may, with the approval of the Lieutenant-Governor in Council, enter into an agreement under which the jailer and jail employees and the municipality may pay into the Fund in respect of the service of such persons before the 1st day of July, 1948, and where such an agreement is entered into and such payments are made, the jailer or jail employee shall be entitled to credit for the period of service represented by the payments made in reckoning the amount of any allowance payable to him. 1948, c. 74, c. 5.

Magistrates.
Rev. Stat.,
c. 219.

34. This Part shall apply to every full-time magistrate except that *The Magistrates Act* shall govern the age of retirement of magistrates. 1947, c. 89, s. 33 (1).

Former teachers.
1947, c. 89.

35.—(1) Every person who made an election under subsection 1 or 2 of section 34 of *The Public Service Act, 1947*, or whose contributions and credits in The Teachers' Superannuation Fund have been transferred to the Fund, shall be entitled to service credit in the Fund for the number of years that is equal to the number obtained by dividing one-half of the amount transferred or paid into the Fund by a number that is equal to four per cent of his annual salary upon his appointment as an employee, provided that the number of years of service credit so obtained shall in no case exceed 18, or 70 per cent of the number of years for which he contributed to The Teachers' Superannuation Fund. 1948, c. 74, s. 7. *part, amended.*

Idem.

(2) Where a person who was a contributor to The Teachers' Superannuation Fund becomes an employee and within 60 days from the date of his becoming an employee makes a written request to the Teachers' Superannuation Commission and to the Board, an amount equal to his contributions and credits in The Teachers' Superannuation Fund with accumulated interest shall be transferred to the Fund from The Teachers' Superannuation Fund.

Where contributions withdrawn.

(3) Where a person who becomes an employee has withdrawn his contributions from The Teachers' Superannuation Fund he may pay into the Fund, within three months of the date of his becoming an employee, the amount withdrawn

with interest from the date of such withdrawal at four and three-quarters per cent per annum compounded half-yearly.

(4) An employee who makes an election under subsection 2 or 3 shall be entitled to service credit in the Fund for the number of years that is equal to the number obtained by dividing one-half of the amount transferred or paid into the Fund by a number that is equal to six per cent of his annual salary upon his appointment as an employee, provided that the number of years of service credit so obtained shall in no case exceed 18, or 70 per cent of the number of years for which he contributed to The Teachers' Superannuation Fund.

Computa-
tion of
service
credits.

(5) Where a contributor or former contributor to The Teachers' Superannuation Fund is an employee or becomes an employee and has elected or elects to become a contributor to the Fund and has withdrawn or withdraws his contributions from The Teachers' Superannuation Fund, his credits therein with accumulated interest shall be transferred to the Fund where he makes an election under subsection 3, and such credits and accumulated interest shall be included in the calculation of service credit provided for in subsections 1 and 4. 1948, c. 74, s. 7, *part*.

Transfer o.
credits.

(6) The benefits under this Act to an employee who has made an election under this section shall not be less than he would have received had he continued as a contributor to The Teachers' Superannuation Fund. 1948, c. 74, s. 7, *part*.

Teachers and
inspectors
not to lose
by transfer.

(7) Where a former employee is employed within the meaning of *The Teachers' Superannuation Act*, his contributions and credits in the Fund, together with interest at the rate of four and three-quarters per cent per annum, shall be transferred to The Teachers' Superannuation Fund. 1949, c. 95, s. 12 (2).

Employees
becoming
teachers.

R.S.O.,
c. 384.

36. This Part shall apply to the permanent staff of any board or commission established under any Act of the Legislature that may be designated by the Lieutenant-Governor in Council. 1947, c. 89, s. 35.

Application
of Part.

37.—(1) Where an employee becomes a member of the civil service of Canada or of the civic service of any municipality or of the staff of any board, commission or public institution established under any Act of the Legislature, a sum of money equal to his contributions and credits in the Fund or such portion thereof as the Board, subject to the approval of the Lieutenant-Governor in Council, may determine, with interest at such rate as the Board, subject to the approval of the Lieutenant-Governor in Council, may determine, shall be

Arrange-
ment for
payment.

out of Fund
into another
superannua-
tion fund;

paid out of the Fund into any like fund maintained to provide superannuation benefits for the members of such civil or civic service or staff, as the case may be.

into Fund
out of
another
superannua-
tion fund.

(2) Where a member of the civic service of any municipality or of the staff or any board, commission or public institution established under any Act of the Legislature becomes an employee and a sum of money is paid into the Fund in respect of the period during which he was a civic servant or on the staff of the board, commission or public institution, the Board, subject to the approval of the Lieutenant-Governor in Council, may allow him such credit under this Part in respect of the sum and the period of service represented thereby as may be determined. 1949, c. 95, s. 12 (3).

Annual
statement
to Assembly.

38. The Board shall present annually to the Lieutenant-Governor in Council a report with respect to the preceding fiscal year showing,

- (a) the names of the employees who have died or retired;
- (b) the position held by each of them;
- (c) the amount of salary payable to each of them at the time of death or retirement;
- (d) the age of each of them at death or retirement;
- (e) the cause of retirement;
- (f) the amount of superannuation or other allowance payable in each case; and
- (g) all other payments authorized under this Part and particulars thereof,

which report shall be laid before the Assembly at the next session of the Legislature. 1947, c. 89, s. 37.

Regulations
by Board.

39. The Lieutenant-Governor in Council, or the Board subject to the approval of the Lieutenant-Governor in Council, may make regulations,

- (a) prescribing the proofs to be furnished as a condition to the payment of an allowance;
- (b) prescribing the times at which and the manner in which contributions to the Fund shall be made by any class of employees with respect to which special circumstances exist;
- (c) determining the maximum number of years of contribution to the Fund, the maximum amount of contribution to the Fund or the maximum salary on which contributions shall be reckoned;

- (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Part. 1949, c. 89, s. 39.

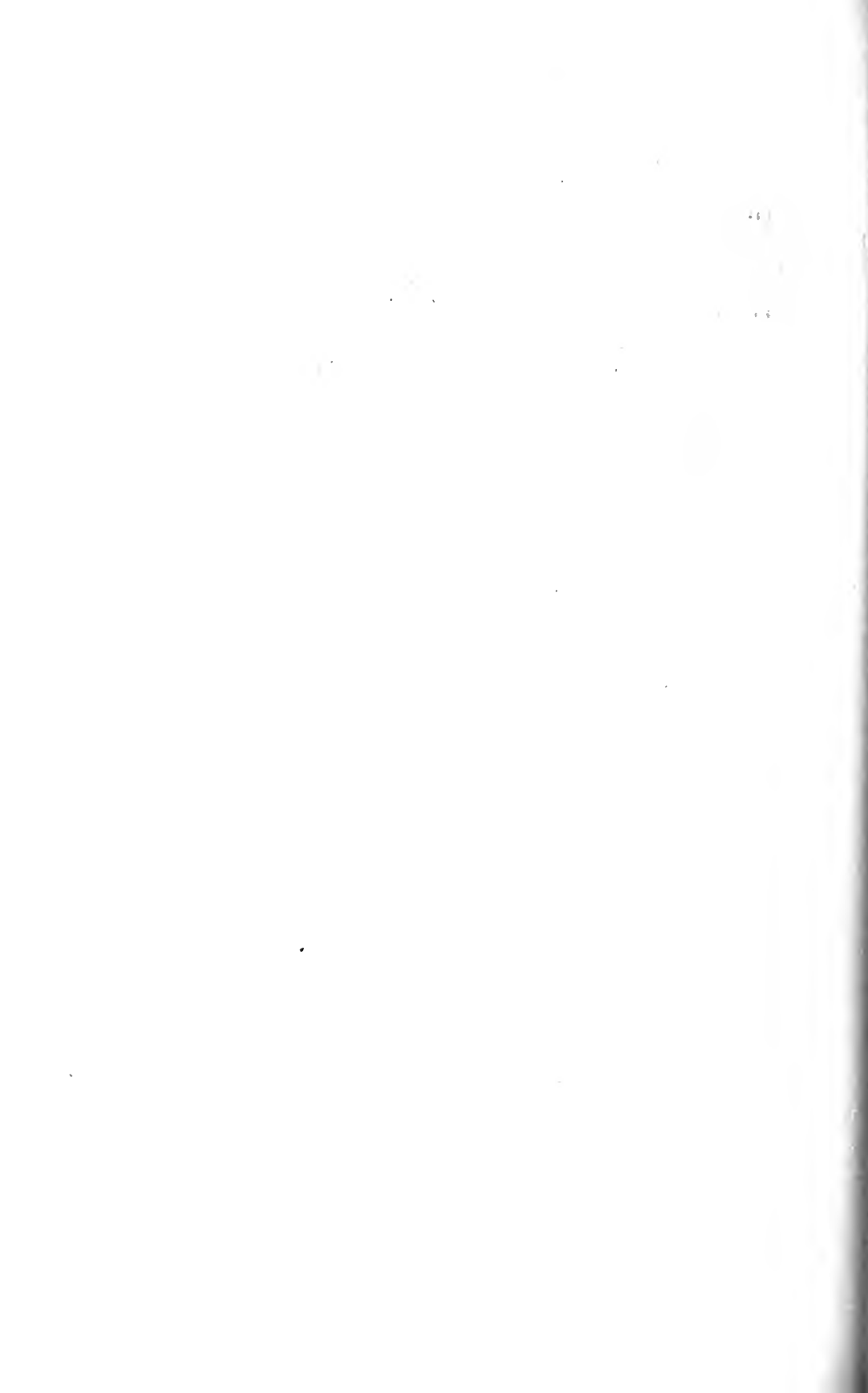
40. The cost of administration of this Part shall be payable out of such moneys as may be appropriated therefor by the Legislature. 1947, c. 89, s. 39.

Cost of
adminis-
tration.

41. This Act shall not operate to,

Existing
allowances.

- (a) increase or decrease the amount of any allowance that was being paid on the 1st day of March, 1948; or
- (b) affect any right to an allowance created under any predecessor of this Act and where there is any such right, the provisions of this Act shall apply *mutatis mutandis* thereto. 1947, c. 89, s. 40.
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CHAPTER 318

The Public Service Works on Highways Act

1. In this Act,

Interpre-
tation.

- (a) "appliances and works" means poles, wires, conduits, transformers, pipes and pipe lines and any other works, structures or appliances placed on or under a highway by an operating corporation;
- (b) "operating corporation" means a municipal corporation or commission and a company or individual operating or using a telephone or telegraph service, or transmitting, distributing or supplying electricity or artificial or natural gas for light, heat or power and includes The Hydro-Electric Power Commission of Ontario;
- (c) "road authority" means the Department of Highways, a municipal corporation, board, commission, or other body having control of the construction, improvement, alteration, maintenance and repair of a highway and responsible therefor. R.S.O. 1937, c. 57, s. 1.

2. Subject to section 3, where in the course of constructing, reconstructing, changing, altering or improving any highway it becomes necessary to take up, remove or change the location of appliances or works placed on or under the highway by an operating corporation, the road authority and the operating corporation may agree upon the apportionment of the cost of labour employed in the work and in default of agreement the cost of the work shall be apportioned equally between the road authority and the operating corporation, but such costs shall not include the replacement or renewal of the appliances or works nor the cost of any materials or supplies, nor any other expense or loss occasioned to the operating corporation. R.S.O. 1937, c. 57, s. 2.

Cost of
removal, etc.
of appliances
and works
on alteration
of highway.

3. Where it is made to appear to the Ontario Municipal Board, upon application made to it, that the circumstances and conditions under which any of the appliances or works mentioned in section 2 have been placed on or under a high-

Apportion-
ment of cost
by Municipal
Board.

way, or that other special conditions render it unfair or unjust that the cost of taking up, removing or changing the location of the works should be apportioned and paid as provided in section 2, the Board, upon the application of the road authority or operating corporation may apportion the cost of the taking up, removing or changing the works in such manner as may appear to it to be equitable, and the decision of the Board shall be final and shall not be subject to appeal. R.S.O. 1937, c. 57, s. 3.

CHAPTER 319

The Public Trustee Act

1. There shall be a Public Trustee who shall be a corporation sole under that name with perpetual succession and an official seal, who may sue and be sued under his corporate name. R.S.O. 1937, c. 166, s. 1.

Office of
Public
Trustee.

2. The Lieutenant-Governor in Council may appoint a member of the Bar of Ontario of not less than five years standing to be the Public Trustee, and may appoint such persons as officers, clerks and servants in the office of the Public Trustee as may be necessary for the purposes of this Act. R.S.O. 1937, c. 166, s. 2.

Qualification
and staff.

3.—(1) In the case of the illness or absence of the Public Trustee, or for any other cause, the Lieutenant-Governor in Council may appoint a person to act as the deputy *pro tempore* of the Public Trustee and the deputy while so acting shall have all the powers of the Public Trustee.

Deputy
Public
Trustee.

(2) A person may be appointed under this section who shall have power to act from time to time.

Idem.

(3) In case of the death of the Public Trustee the deputy may act until his authority is revoked or until a Public Trustee is appointed and assumes the duties of his office.

Idem.

(4) In the case of the illness or absence of the Public Trustee or if the office becomes vacant and no deputy has been appointed, the Attorney-General shall be *ex officio* Public Trustee until another appointment is made. R.S.O. 1937, c. 166, s. 3.

When
Attorney-
General
to act.

4. The salaries or other remuneration of the Public Trustee and of the officers, clerks and servants in his office shall be fixed by the Lieutenant-Governor in Council and may be paid out of such moneys as may be appropriated by the Legislature for that purpose, or out of any fund established under this Act, as the Lieutenant-Governor may from time to time direct. R.S.O. 1937, c. 166, s. 4.

Salaries.

5. The Public Trustee shall discharge the duties imposed upon him by *The Crown Administration of Estates Act*, *The Charities Accounting Act* and any other Act of the Legislature

Duties.

Rev. Stat.,
cc. 80, 50.

or by any order of the Lieutenant-Governor in Council, and it shall also be his duty to make inquiries from time to time as to property which has escheated, or become forfeited for any cause to the Crown, or in which the Crown in right of Ontario may be interested, and all persons shall furnish to the Public Trustee such information as he may require, and in default of so doing shall be liable to a penalty not exceeding \$100. R.S.O. 1937, c. 166, s. 5.

Powers in conducting inquiry.

Rev. Stat., c. 308.

6. For the purposes of any inquiry under section 5 the Public Trustee shall have all the powers which may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1937, c. 166, s. 6.

Acceptance and execution of trusts.

7.—(1) The Public Trustee, with his consent in writing, may be appointed trustee of any will or settlement or other instrument creating a trust or duty in the same manner as if he were a private trustee.

May be appointed sole trustee.

(2) The Public Trustee may be appointed sole trustee although the trust instrument contemplates two or more trustees, and any person who is a trustee with the Public Trustee may at any time retire from the trust upon passing his accounts and paying over the balance. R.S.O. 1937, c. 166, s. 7.

Fees and charges.

8.—(1) Subject to the regulations, the Public Trustee shall make a charge for his services against every estate which comes to his hand to be dealt with.

To be allowed same fees as private trustee.

(2) All fees, charges, and expenses which would be allowed to a private trustee shall be allowed to the Public Trustee and shall be collected and accounted for in such manner as may be prescribed by the regulations. R.S.O. 1937, c. 166, s. 8.

Services of staff may be charged for.

(3) Notwithstanding anything in this or any other Act, the Public Trustee may in connection with any estate or trust administered or managed by him make a reasonable charge for any service performed by a member of the staff of his office where the service is one for which a charge would be allowed as a disbursement against the estate or trust if performed by a person retained, engaged or employed to perform such service by a private trustee, and every such charge shall for the purpose of such estate or trust be deemed to be a disbursement. 1941, c. 55, s. 27.

Fees, charges, etc., to be paid into separate account.

9.—(1) The fees, charges, and remuneration and refunds of all expenses and all income of the office of every description shall be paid by the Public Trustee into a separate account approved by the Lieutenant-Governor in Council and as prescribed by the regulations.

(2) There shall be paid out of such account the salaries or other remuneration, and the expenses of the Public Trustee and the officers, clerks and servants in his office. Payments out of account.

(3) From any surplus in such account there may be established an assurance fund as may be provided by the regulations. Establishment of assurance fund.

(4) Notwithstanding anything in *The Crown Administration of Estates Act*, the Lieutenant-Governor in Council may direct that moneys coming to the hand of the Public Trustee under that Act shall be placed to the credit of such account and applied to the purposes of subsection 2. Moneys received under Rev. Stat., c. 80.

(5) The Lieutenant-Governor in Council may from time to time direct the payment into the Consolidated Revenue Fund of any balance at the credit of such account. Payment over of balances.

(6) Payments into and out of such account shall be made in such manner and subject to such conditions as may be prescribed in the regulations. R.S.O. 1937, c. 166, s. 9. Manner of paying into and out of account.

10. All sums required to discharge any liability for a loss which the Public Trustee, if he were a private trustee, would be personally liable to discharge, shall be made good out of the assurance fund or out of the Consolidated Revenue Fund, but neither the Public Trustee nor any of his officers nor the assurance fund shall be liable for any loss which would not have imposed liability upon a private trustee. R.S.O. 1937, c. 166, s. 10. Losses, how to be made good.

11. The Public Trustee may accept and administer any charitable or public trust. R.S.O. 1937, c. 166, s. 11. Charitable and public trusts.

12. The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) respecting the office of Public Trustee, and prescribing the trusts or duties he is authorized to accept or undertake under this Act, and the security, if any, to be given by the Public Trustee and his officers;
- (b) for fixing the fees and charges in the office of the Public Trustee and the application and disposal of the same;
- (c) respecting the transfer to and from the Public Trustee of any property;
- (d) respecting the accounts to be kept and the auditing thereof;

- (e) for the establishment of an assurance fund for the purpose of meeting any losses for which the office of Public Trustee may be liable;
- (f) fixing the rate of interest to be allowed upon money in the hands of the Public Trustee and fixing the amount of interest to be charged upon advances made on behalf of any estate and concerning the investment of money held by him and the custody and control of security held by him for such investments;
- (g) for constituting a committee or board for the supervision of the investments or other dealings with property by the Public Trustee, and for providing for the remuneration by fees, or otherwise, of the members of the committee or board;
- (h) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 166, s. 12.

Committee
to be
visitors.

13.—(1) The committee or board constituted for the supervision of investments or other dealings with property by the Public Trustee shall be visitors of the office of the Public Trustee.

Visitors
may make
suggestions.

(2) The visitors may make such suggestions and recommendations with regard to the general policy respecting the management and conduct of the office of Public Trustee as they may deem advisable.

Consulta-
tions as to
administra-
tion.

(3) The Public Trustee may consult with the visitors from time to time as to methods of administration, staff and other matters relating to the office.

Annual
report of
visitors.

(4) The visitors shall make an annual report to the Lieutenant-Governor in Council respecting the performance of their duties and the exercise of their powers under this section. R.S.O. 1937, c. 166, s. 13.

Security by
Public
Trustee not
necessary.

14. Notwithstanding any rule or practice or any Act requiring security, it shall not be necessary for the Public Trustee to give any security for the due performance of his duty as executor, administrator, trustee, committee, or in any other office to which he may be appointed by order of the court or under any statute. R.S.O. 1937, c. 166, s. 14.

CHAPTER 320

The Public Utilities Act

1. In Parts III, IV, V and VI, "public utility" means water, artificial or natural gas, electrical power or energy, steam or hot water. R.S.O. 1937, c. 286, s. 1. Interpretation.

PART I

MUNICIPAL WATERWORKS

2.—(1) The corporation of a local municipality may, under and subject to the provisions of this Part, acquire, establish, maintain and operate waterworks, and may acquire by purchase or otherwise and may enter on and expropriate land, waters and water privileges and the right to divert any lake, river, pond, spring or stream of water, within or without the municipality, as may be deemed necessary for waterworks purposes, or for protecting the waterworks or preserving the purity of the water supply. Establishment of works and expropriation of land, etc.

(2) No land, water or water privilege which is not situate within or within 15 miles of the municipality shall be expropriated under the powers conferred by subsection 1, and no water shall be taken from any lake or river except within or within 15 miles of the municipality, or in either case so as to interfere with the waterworks of any other municipal corporation or the supply of water therefor then in actual use. Limitation of power to expropriate.

(3) The corporation may purchase the waterworks of any person situate within or in the neighbourhood of the municipality and may improve and extend them, and, for the purpose of any improvement or extension, may exercise all the powers conferred by this Part. R.S.O. 1937, c. 286, s. 2. Power to acquire existing works.

(4) The council of the corporation may define an area in the municipality and may assess and levy on the rateable property in the area the cost of the waterworks including debenture charges, the cost of maintenance and management and the cost of the water, or any part thereof. 1947, c. 90, s. 1. Areas.

3. Part XV of *The Municipal Act* shall apply to the exercise by the corporation of any of the powers conferred by this Part. R.S.O. 1937, c. 286, s. 3. Provision as to paying compensation Rev. Stat., c. 243.

Construction of necessary works.

4.—(1) The corporation may construct and maintain, in and upon the land acquired by it, such reservoirs, water and other works, plant and machinery as may be requisite for the undertaking, and may, by pipes or otherwise, convey the water thereto and therefrom, in, upon and through any land lying between the reservoirs and waterworks and the lake, river, pond, spring or stream of water from which the water is procured or between them, or any of them, and the municipality.

Power to enter on intermediate lands.

(2) The corporation and its servants may for such purposes enter and pass upon and over such intermediate land, and may, if necessary, cut and dig up the same and lay pipes through it, and in, upon, through, over and under the highways, lanes and other public communications within the municipality, or within the distance limited by subsection 2 of section 2, and in, upon, through, over and under the land of any person within the municipality.

Duty of restoration.

(3) All such highways, lanes or other public communications, and all land, not being the property of the corporation, shall be restored to their original condition without unnecessary delay.

Power to expropriate.

(4) The corporation may purchase or expropriate, use and occupy such part of such intermediate land as it may deem necessary for the making and maintaining of the works, or for the opening of new streets required for the same, or for the protection of the works, or for preserving the purity of the water supply, or for taking up, removing, altering or repairing the pipes, and for distributing water to the inhabitants of the municipality, or for the uses of the corporation or of the owners or occupants of the land through or near which the pipes may pass. R.S.O. 1937, c. 286, s. 4.

Power to lay down pipes.

5. For the purpose of distributing the water the corporation may sink and lay down pipes, tanks, reservoirs and other conveniences, and may from time to time alter their location or construction as the corporation may deem advisable. R.S.O. 1937, c. 286, s. 5.

Service pipes.

6.—(1) The service pipes shall be laid down from the main pipe to the line of the highway by the corporation, and the corporation shall be responsible for keeping the same in repair.

Laying of, from line of street to wall of building.

(2) Where a vacant space intervenes between the outer line of a highway and the wall of a building or other place into which the water is to be taken, the corporation may, with the consent of the owner, lay the service pipe across the vacant space to the interior face of the outer wall and charge

the cost thereof to the owner of the premises, or the owner may himself lay the service pipe, if it is done to the satisfaction of the corporation.

(3) The expense incidental to the laying and repairing of service pipes if laid or repaired by the corporation, except the repairing of the service pipes from the main pipe to the line of a highway, or of superintending the laying or repairing of the same if laid or repaired by any other person, shall be payable by the owner to the corporation on demand, and if not so paid may be collected in the same manner as water rates. Expenses of laying.

(4) The expense of superintending the laying or repairing of a service pipe shall not exceed \$1. R.S.O. 1937, c. 286, s. 6. Expenses of superintending.

7.—(1) The service pipes from the line of a highway to the interior face of the outer wall of the building supplied, together with all branches, couplings, stopcocks and apparatus placed therein by the corporation shall be under its control, and if any damage is done to that portion of the service pipe or its fittings the owner or occupant of the building shall forthwith repair the same to the satisfaction of the corporation, and, in default of his so doing, whether notified or not, the corporation may enter upon the land where the service pipe is and repair the same, and charge the cost thereof to the owner or occupant of the premises, and the cost may be collected in the same manner as water rates. Service pipe to be under control of corporation.

(2) The stopcock placed by the corporation inside the wall of the building shall not be used by the water taker, except in case of accident, or for the protection of the building or the pipe and to prevent the flooding of the premises. Prohibition as to using stopcock.

(3) Persons supplied with water by the corporation may be required to place only such taps for drawing and shutting off the water as are approved of by the corporation. R.S.O. 1937, c. 286, s. 7. Approval of taps by corporation.

8. The corporation may regulate the distribution and use of the water in all places where and for all purposes for which it may be required, and fix the prices for the use thereof, and the times of payment, and may erect such number of public hydrants and in such places as it may see fit, and may direct in what manner and for what purposes the same shall be used, and may fix the rate or rent to be paid for the use of the water by hydrants, fireplugs and public buildings. R.S.O. 1937, c. 286, s. 8. Regulation of use of water and of rates.

9.—(1) The corporation of every municipality having a system of waterworks shall supply water at all times to all public institutions situate therein or within three miles thereof Rates at which water to be supplied to provincial institutions.

and belonging to or maintained by the Province at such rents, rates or prices as may be fixed by by-law of the corporation, but not exceeding those charged to manufacturers, provided that any expenditure on works beyond the limits of the municipality chargeable to capital account, shall be borne and paid by the Province.

Penalty.

(2) For every contravention of subsection 1, the corporation shall be liable to a penalty of not more than \$500, recoverable by action at the suit of the Crown. R.S.O. 1937, c. 286, s. 9.

Non-liability for breakage or stoppage.

10. The corporation shall not be liable for damages caused by the breaking of any service pipe or attachment, or for shutting off of water to repair or to tap mains, if reasonable notice of the intention to shut off the water is given. R.S.O. 1937, c. 286, s. 10.

Power to supply water outside municipality.

11.—(1) A corporation may supply water to owners or occupants of land beyond the limits of the municipality.

Power to supply water to manufacturers and railway companies.

(2) The corporation may make any agreement that may be deemed expedient for the supply of water within or beyond the limits of the municipality for a term not exceeding 10 years to any person carrying on or proposing to carry on any manufacturing business or for a term not exceeding 20 years to any railway company.

Consent to lay pipes.

(3) Where water is supplied in a municipality that has a waterworks, no pipes for such purpose shall be carried in, upon, through, over or under any highway, lane or public communication within the municipality without the consent of the council thereof. 1946, c. 84, s. 1.

Power to regulate supply and to prohibit wrongful use of water.

12. The corporation may pass by-laws for regulating the time, manner, extent and nature of the supply by the works, the building or persons to which and to whom the water shall be furnished, the price to be paid therefor, and every other matter or thing related to or connected therewith which it may be necessary or proper to regulate, in order to secure to the inhabitants of the municipality a continued and abundant supply of pure and wholesome water, and to prevent the practising of frauds upon the corporation with regard to the water so supplied, and for providing that for a contravention of any such by-law the offender shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20 or may be imprisoned without the option of a fine for a term of not more than one month. R.S.O. 1937, c. 286, s. 12.

13. Every person who,Prohibitions
and
penalties.

- (a) wilfully hinders or interrupts, or causes or procures to be hindered or interrupted the corporation, or any of its officers, contractors, agents, servants or workmen, in the exercise of any of the powers conferred by this Act;
- (b) wilfully lets off or discharges water so that the water runs waste or useless out of the works;
- (c) being a tenant, occupant, or inmate of any house, building or other place supplied with water from the waterworks, lends, sells, or disposes of the water, gives it away, permits it to be taken or carried away, uses or applies it to the use or benefit of another, or to any use and benefit other than his own, increases the supply of water agreed for, or improperly wastes the water;
- (d) without lawful authority wilfully opens or closes any hydrant, or obstructs the free access to any hydrant, stopcock, chamber, pipe, or hydrant-chamber, by placing on it any building material, rubbish, or other obstruction;
- (e) throws or deposits any injurious, noisome or offensive matter into the water or waterworks, or upon the ice, if the water is frozen, or in any way fouls the water or commits any wilful damage, or injury to the works, pipes, or water, or encourages the same to be done;
- (f) wilfully alters any meter placed upon any service pipe or connected therewith, within or without any building or other place, so as to lessen or alter the amount of water registered;
- (g) lays or causes to be laid any pipe or main to communicate with any pipe or main of the waterworks, or in any way obtains or uses the water without the consent of the corporation; or
- (h) washes or cleanses cloth, wool, leather, skin or animals, or places any noisome or offensive thing, or conveys, casts, throws or puts any filth, dirt, dead carcass or other noisome or offensive thing, or bathes in any lake, river, pond, creek, spring, source or fountain which is the source of supply for such waterworks within such area as may be fixed and defined by order of the Department of Health, or causes, permits or suffers the water of any sink,

sewer or drain to run or be conveyed into the same, or causes any other thing to be done whereby the water therein may be in any way tainted or fouled,

shall be guilty of an offence and for every such offence shall be liable to a penalty of not more than \$20 or may be imprisoned, without the option of a fine, for a term of not more than one month. R.S.O. 1937, c. 286, s. 13.

Power to
levy special
rate.

14.—(1) For the purpose of assisting in the payment of any debentures issued for waterworks purposes, and the interest thereon, the corporation may impose a special tax in each year, during the currency of the debentures, not exceeding four mills in the dollar according to the assessed value thereof, upon the land fronting or abutting upon any highway, lane or other public communication in, through or along which the waterworks mains are laid, as well as all other land distant not more than 300 feet therefrom, which enjoys the advantage of the use of the water for the purpose of protection against fire, whether or not the owners or occupants thereof use the water for general purposes.

Power to
remit
special tax.

(2) The collector of taxes, upon the production by an owner or occupant using the water of the receipt for the payment of the rate or rent chargeable for the use thereof during the year, or such proportion thereof as equals the special tax, shall remit or allow to the owner or occupant the amount so paid as a payment of or on account of the special tax. R.S.O. 1937, c. 286, s. 14.

Construc-
tion of
mains, etc.,
for benefit
of indi-
viduals.

15. If one or more property owners within a municipality applies to the council for the construction of water mains and other works necessary to connect their properties with the waterworks system of the corporation, the council may by by-law provide for the extension of the mains and pipes and for all other works necessary to make the connection, and for permitting the applicants to receive the benefit of the waterworks upon such terms as the council may deem just, and the by-law may further provide that the cost of the work shall be charged as an annual special rate upon the land of the applicants, designated in the application, and the rate shall be payable whether or not the applicants or the owners for the time being of the lands continue to use the water. R.S.O. 1937, c. 286, s. 15.

Power to
levy special
rate.

16.—(1) The corporation may impose a special rate or rent in respect of the cost or maintenance of a water main on persons who own or occupy land in the municipality or in a water area where the land fronts or abuts on a highway, lane or other public communication in, through or along which the

main is laid, provided no such person shall be liable to pay a special rate or rent in respect of the cost of the main where local improvement rates for the main have been or are being levied upon the land so owned or occupied.

(2) The special rate or rent may be collected in the same manner and with like remedies as water rates or in the same manner and with like remedies as taxes under *The Assessment Act*. 1946, c. 84, s. 2, *part*. Manner of collection. Rev. Stat., c. 24.

PART II

MUNICIPAL PUBLIC UTILITY WORKS OTHER THAN WATERWORKS

17. In this Part, "public utility" means artificial and natural gas, electrical power or energy, steam or hot water. Interpretation.
R.S.O. 1937, c. 286, s. 16.

18.—(1) The corporation of any municipality may manufacture, procure, produce and supply for its own use and the use of the inhabitants of the municipality any public utility for any purpose for which the utility may be used, and for such purposes may purchase, construct, improve, extend, maintain and operate any works which may be deemed requisite and may acquire any patent or other right for the manufacture, production or supply of any such public utility, and for any of the said purposes or for any purpose for which a public utility may be used, may acquire by purchase or otherwise fittings, fixtures, apparatus, appliances, machines, meters and other equipment and may supply or dispose of the same by sale, lease or otherwise and may provide for the installation and maintenance thereof in or upon the lands and premises of users of the public utility. Power of corporation to produce and supply public utilities.

(2) The corporation may sell and dispose of coke, tar, and every other by-product or residuum obtained in or from its works, and any surplus coal it may have on hand. May sell by-products.

(3) The corporation may purchase or rent such land and buildings as may be deemed necessary for the purpose of its undertaking. R.S.O. 1937, c. 286, s. 17. May rent or purchase lands.

19.—(1) Notwithstanding anything in this Act or in any general or special Act or in any contract heretofore or hereafter entered into, the corporation of any municipality or any municipal commission established under this or any other Act which supplies to any person electrical power or energy supplied to it by The Hydro-Electric Power Commission of Ontario may allocate and distribute its available power amongst its customers and interrupt or decrease the delivery of electrical power or energy under any contract at any time Allocation and distribution of available power.

that its own supply of electrical power or energy is interrupted or decreased by The Hydro-Electric Power Commission of Ontario pursuant to *The Power Commission Act*.

Rev. Stat.,
c. 281.

No breach
of contract.

(2) Nothing done under subsection 1 shall be deemed a breach of contract or entitle any person to rescind any contract or release any guarantor from performance of his obligations. 1947, c. 91, s. 1.

Power to
expropriate
lands for
works.

Rev. Stat.,
c. 243.

20. The corporation may acquire by purchase, lease or otherwise, or may expropriate any land in the municipality which may be required for its works or any extension thereof, and Part XV of *The Municipal Act* shall apply to the exercise by the corporation of the power to expropriate and of the power conferred by section 23. R.S.O. 1937, c. 286, s. 18.

Corpora-
tion may
break up
streets.

21. The corporation, for the purpose of laying down, taking up, examining and keeping in repair the pipes, wires and rods used for the purpose of its undertaking, may break up, dig and trench in, upon and under the highways, lanes and other public communications, or, with the consent of the owner, in, upon and under any private property, or may, upon poles or otherwise, conduct such wires and rods along, over and across such highways, lanes and other public communications, or, with the consent of the owner, upon private property. R.S.O. 1937, c. 286, s. 19.

Corporation
may carry
pipes, wires
and rods
through
parts of
buildings to
supply
other parts.

22.—(1) The corporation may carry pipes, wires or rods to any part of any building within the municipality parts of which belong to different owners, or are in possession of different tenants or occupants, passing over the property of any owner or of any tenant or occupant to convey the public utility to the part of the building to which it is to be conveyed.

Method.

(2) Such pipes, wires or rods shall be carried up and attached to the outside of the building unless consent is obtained to carry them in the inside. R.S.O. 1937, c. 286, s. 20.

May also
break up
passages
common to
neighbour-
ing prop-
rietors.

23. The corporation may also break up and uplift all passages common to neighbouring owners, tenants or occupants, and dig or cut trenches therein, for the purpose of laying down pipes, wires or rods, or taking up, examining or repairing the same, doing as little damage as may be in the execution of the powers hereby conferred, and restoring such passages to their original condition without unnecessary delay. R.S.O. 1937, c. 286, s. 21.

Contracts
for supply
of public
utility for
ten years.

24. The corporation may, from time to time and upon such terms as may be deemed advisable, enter into contracts for the supply of a public utility to any person for any period not exceeding 10 years. R.S.O. 1937, c. 286, s. 22.

25. A corporation possessing or intending to construct works under this Act may, under the authority of a by-law of an adjoining local municipality, exercise the like powers within the adjoining municipality, including the power to supply the public utility to owners and occupants of land in the adjoining municipality, as it may exercise within its own municipality upon such terms and conditions as may be agreed upon. R.S.O. 1937, c. 286, s. 23.

Power to carry works into adjoining municipalities.

PART III

ALL MUNICIPAL PUBLIC UTILITIES

26. This Part shall apply to all municipal corporations owning or operating public utilities. R.S.O. 1937, c. 286, s. 24.

Application of Part.

27.—(1) The council may pass by-laws for the maintenance and management of the works and the conduct of the officers and others employed in connection with them, and may also by by-law or resolution fix the rates or charges for supplying the public utility and the charges to meet the cost of any work or service done or furnished for the purpose of a supply of a public utility, and the rent of or charges for fittings, apparatus, meters or other things leased or furnished to consumers and provide for the collection of such rates, charges and rents, and the times and places when and where they shall be payable, and for allowing for prepayment or punctual payment such discount as may be deemed expedient.

By-laws for maintenance and management of works.

(2) In fixing the rents, rates or prices to be paid for the supply of a public utility the corporation may use its discretion as to the rents, rates or prices to be charged to the various classes of consumers and also as to the rents, rates or prices at which a public utility shall be supplied for the different purposes for which it may be supplied or required.

Discretion as to rates to be charged.

(3) In default of payment the corporation may shut off the supply but the rents or rates in default shall, nevertheless, be recoverable.

Power to shut off supply.

(4) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to The Hydro-Electric Power Commission of Ontario shall be a debt and may be recovered by action in any court of competent jurisdiction. R.S.O. 1937, c. 286, s. 25.

Action to recover amount payable.

28. No rate to provide for the maintenance or management of any utility shall be levied except to the extent to which the revenues from the utility are insufficient for such purposes. 1946, c. 84, s. 2, *part*.

Amount of rate.

Change of
frequency.

29.—(1) Where The Hydro-Electric Power Commission of Ontario changes the periodicity in alternations of current at which it supplies electrical power or energy to a municipal corporation or a commission, the corporation or commission may change the periodicity in alternations of current at which it supplies that electrical power or energy to any person, notwithstanding any agreement heretofore or hereafter made.

Conversion
not breach
of contract.

(2) Nothing done under subsection 1 shall be deemed a breach of contract by the municipal corporation or commission or entitle any person to rescind any agreement or release any guarantor from the performance of his obligation, or render the municipal corporation or commission, its servants or agents liable in any action or other legal proceeding for damages or otherwise. 1949, c. 85, s. 1.

Extent to
which
amount pay-
able to
form lien
on land.

30.—(1) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to The Hydro-Electric Power Commission of Ontario for a period not exceeding three months by the owner or occupant of any lands for the public utility supplied to him for use thereon shall be a lien and charge upon the estate or interest in such land of the person by whom the amount is due and may be collected by distress upon the goods and chattels of the person and by the sale of his estate and interest in the lands.

Entry by
clerk on
collector's
roll.

(2) The clerk of the municipality shall, upon notice to him of the amount due and of the person by whom it is due and of the lands upon which a lien is claimed, enter the amount upon the collector's roll and the collector shall proceed to collect the amount from the goods and chattels and the estate or interest in the lands of the person liable in the same way, as nearly as may be, as municipal taxes are collected.

Right to
distrain.

(3) The municipal corporation or the public utility or hydro-electric commission, before taking proceedings under subsection 2, may itself distrain upon the goods and chattels of the person liable to pay for the amount due for any public utility supplied to him.

Determina-
tion of
amount
payable in
case of
dispute.

(4) In the event of the owner of the goods and chattels or of the land disputing the amount payable for the public utility, the question of the amount due may be determined by the judge of the county court upon a summary application at the instance of either party and the collector's roll or distress warrant shall, if necessary, be amended in accordance with the findings of the judge. R.S.O. 1937, c. 286, s. 26.

Protection
and powers
of officers.

31. The officers of the corporation, when acting in the discharge of their duties under this Act, shall be constables *ex officio*. R.S.O. 1937, c. 286, s. 27.

32. No action shall be brought against any person for any- Limitation of actions.
thing done in pursuance of this Act, but within six months
next after the act committed, or in case there is a continuation
of damage, within one year after the original cause of action
arose. R.S.O. 1937, c. 286, s. 28.

33. Materials procured under contract with the corpora- Property exempt from execution.
tion and upon which the corporation has made advances in
accordance with the contract, shall be exempt from execution
against the person who supplied or contracted to supply the
materials. R.S.O. 1937, c. 286, s. 29.

34. The public utility works and the land acquired for the Money borrowed to be a charge on works.
purpose thereof and the property appertaining thereto, shall
be specially charged with the repayment of any sum borrowed
by the corporation for the purposes thereof, and for any debentures
issued therefor, and the holders of the debentures shall
have a preferential charge on such works, land and prop-
erty for securing the payment of the debentures and the
interest thereon. R.S.O. 1937, c. 286, s. 30.

35.—(1) Notwithstanding anything in *The Municipal* Excess of receipts over expenditures to be paid to municipal treasurer.
Act, the receipts arising from supplying any public utility or
from property connected with the utility, after providing for
the expenditures incurred for the maintenance and operations
of the utility, shall, quarterly or oftener if the council so
directs, be paid over to the treasurer of the municipality and
shall be placed to the credit of the utility in a separate account
until the debentures and other forms of capital debt have been
retired, and thereafter shall form part of the general funds
of the municipality. Rev. Stat., c. 243.

(2) Where debentures or other forms of capital debt are Application of receipts.
outstanding in any year against the utility, the treasurer of
the municipality shall apply the receipts paid over under sub-
section 1 in payment of the amount required to be levied under
any debenture by-law of the municipality for the construction,
extension or improvement of the utility, or with the approval
of the council or the Department of Municipal Affairs,

(a) in payment of temporary advances required for
current expenditures pending the collection of
revenue; or

(b) in the reduction of any indebtedness incurred with
respect to the works and equipment of the utility; or

(c) in the maintenance, repair, renewal or extension of
the utility; or

- (d) in establishing a reserve fund to be used at any future time for any purpose mentioned in this subsection.

Where levy
of rate
necessary.

(3) It shall not be necessary to levy any rate to provide for sinking fund and interest or other payments on account of any debentures issued by the municipality for the construction, extension or improvement of the utility, except to the extent to which the receipts paid over under subsection 1 are insufficient to meet the annual payments falling due on account of principal and interest of the debentures.

Electric
utilities
excepted.

(4) This section shall not apply to any electrical public utility for which electrical power and energy are supplied by The Hydro-Electric Power Commission of Ontario. 1944, c. 50, s. 1.

Electrical
utilities.

36. The receipts arising from supplying an electrical public utility for which electrical power and energy are supplied by The Hydro-Electric Power Commission of Ontario or from property connected with the utility, after providing for the expenditures incurred for the maintenance and operation of the utility and any payments required by *The Power Commission Act*, shall, quarterly or oftener if the council so directs, be paid over to the treasurer of the municipality to the extent and in such amounts as are necessary to provide for any payments required to be made on account of principal or interest of any debentures issued for the construction and equipment of works for the distribution of electrical power and energy, and it shall not be necessary to levy any rate to provide for sinking fund and interest or other payments on account of any debentures issued by the municipality for the construction, extension or improvement of the utility, except to the extent to which the receipts paid over hereunder are insufficient to meet the annual payments falling due on account of principal and interest of the debentures. 1944, c. 50, s. 2.

Rev. Stat.,
c. 281.

Disposal
of public
utility
properties.

37.—(1) Subject to subsections 4, 5 and 6 and notwithstanding section 34 the corporation may free from any charge or lien, sell, lease or otherwise dispose of a public utility undertaking, or the whole or any part of the real or personal property acquired, held or used for or in connection with a public utility undertaking, which in the opinion of the council is no longer required for the purpose of the corporation or for the undertaking.

Application
of proceeds
of disposal.

(2) The proceeds derived from any sale, lease or other disposition of such undertaking or property shall be applied in redemption and payment of any debentures of the corporation

issued in respect to the public utility undertaking, or if there are no such debentures, then in case of sale or disposal of a portion only of the property the proceeds thereof shall be applied for the undertaking in connection with which the property was held or used and in case of sale or disposal of the whole of the property or of the undertaking the proceeds thereof shall form part of the general funds of the corporation, and any security received or held by the corporation for any part of the consideration payable on the sale, lease or other disposition shall stand as security for such debentures or be applied for the undertaking or form part of the general funds of the corporation, as the case may be.

(3) In a case where there are no debentures to the redemption and payment of which proceeds derived from any sale or disposal of an undertaking or property may be applied, the proceeds may be applied in redemption of other debentures of the corporation or with the approval of the Ontario Municipal Board may be applied for purposes of a capital nature; provided that where a portion only of the property of an undertaking for the supply of electrical power or energy obtained from The Hydro-Electric Power Commission of Ontario is sold or disposed of the proceeds shall be applied only as that Commission may approve.

Approval
necessary
as to appli-
cation of
proceeds.

(4) A corporation shall not sell, lease or otherwise dispose of the whole of a public utility undertaking or the whole of the property acquired, held or used for or in connection with a public utility undertaking without the assent of the electors qualified to vote on money by-laws first being obtained thereto in the manner provided by *The Municipal Act* with respect to a money by-law requiring the assent of the electors.

When
assent of
electors
requisite.

Rev. Stat.,
c. 243.

(5) A corporation shall not sell, lease or otherwise dispose of a portion only of the property acquired or held for or in connection with a public utility undertaking so long as that portion is actually used for the purposes of the undertaking, except with the approval of the Ontario Municipal Board, and on such application the Board may direct that the assent of the electors qualified to vote on money by-laws shall first be obtained in the manner aforesaid.

When
approval of
Ontario
Municipal
Board
requisite
for sale.

(6) A corporation shall not sell, lease or otherwise dispose of the whole of the public utility undertaking for the supply of electrical power or energy obtained directly or indirectly from The Hydro-Electric Power Commission of Ontario or of the whole of the property acquired, held or used for or in connection therewith or of any part thereof which is no longer required for the undertaking or for the purpose of the corporation, or for so long as the undertaking is being operated by or for the corporation, sell, lease or otherwise dispose of any

When assent
of Power
Commission
requisite.

part of the property which is actually used for the purposes of the undertaking without the assent of The Hydro-Electric Power Commission of Ontario first being obtained thereto:

Procedure
when a
commission
operates a
utility.

(7) Where the powers of a corporation with respect to a public utility undertaking are exercised by a commission, the council shall upon the request of the commission submit to the qualified electors a by-law to authorize any sale, lease or other disposition of the undertaking or the whole or any part of the property acquired, held or used for or in connection therewith which under this section is required to be assented to by the electors.

Short leases
excepted.

(8) Subsections 4, 5 and 6 shall not apply to a lease for a term not exceeding five years of a portion of the property of a public utility undertaking.

Application
of section.

(9) This section shall apply to sales, leases and other dispositions of a public utility undertaking and of any property acquired, held or used for or in connection with a public utility undertaking, completed after the 1st day of March, 1931. R.S.O. 1937, c. 286, s. 32.

PUBLIC UTILITY COMMISSION

Establish-
ment of
municipal
commission.

38.—(1) Subject to subsections 2 to 6, the council of a municipal corporation which owns or operates works for the production, manufacture or supply of any public utility or is about to establish such works, and the council of a township corporation which has entered into a contract with The Hydro-Electric Power Commission of Ontario for a supply of electrical power or energy in the township, may, by by-law passed with the assent of the municipal electors, provide for entrusting the construction of the works and the control and management of the works to a commission to be called "The Public Utilities Commission of the (*naming the municipality*)," or in the case of such township, "The Hydro-Electric Commission of the Township of (*naming the township*)," or to a commission established under this Part.

Appoint-
ment of
commission
for village.

(2) Where the corporation of a village has entered into a contract with The Hydro-Electric Power Commission of Ontario, under *The Power Commission Act*, for a supply of electrical power or energy, a commission may be established by by-law of the council under the provisions of this Part for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of such electrical power or energy, and it shall not be necessary that the by-law receive the assent of the electors.

Rev. Stat.,
c. 281.

(3) Every such commission established by the council of a village before the 12th day of April, 1917 shall be deemed to have been lawfully established, and the by-law establishing the commission shall be deemed to be and to have been legal, valid and binding from the time of the passing thereof, notwithstanding that the by-law was passed and the commission was established without the assent of the electors first having been obtained. Village commissions already established.

(4) A by-law passed by the council of a village for the establishment of a commission without the assent of the electors may be repealed by the council at any time and it shall not be necessary to obtain the assent of the electors to the repeal. Repeal of village by-law establishing commission.

(5) Where a by-law establishing a commission in a village has been passed with the assent of the electors the by-law may be repealed with the like assent. Assent of electors.

(6) Upon the repeal of a by-law establishing a commission under this section, the control and management of the works shall be vested in the council and the commission shall cease to exist. R.S.O. 1937, c. 286, s. 33. Effect of repeal.

39. A commission established under *The Municipal Light and Heat Act* or *The Municipal Waterworks Act*, being chapters 234 and 235 of The Revised Statutes of Ontario, 1897, or under a special Act for the construction or the control and management of works for the manufacture, production or supply of any public utility shall be deemed to be a commission established under this Part and the provisions of this Part shall apply to it. R.S.O. 1937, c. 286, s. 34. Commissions established under R.S.O. 1897, cc. 234, 235, continued.

40.—(1) Where a commission has been established under this Part as to any public utility and the corporation desires to entrust the control and management of any other public utility works to a commission, subject to subsection 3, such control and management shall be entrusted to the commission so established, or if there is more than one commission so established to one of them, or the by-law may provide for placing under the control and management of one commission all public utility works owned by the corporation. One commission for several public utilities.

(2) Where the construction of any other public utility works and the control and management of them is entrusted to any of the commissions mentioned in section 39, the commission thereafter shall be called "The Public Utility Commission of the (*naming the municipality*)". Name.

Special provisions as to Hydro-Electric Commission.

(3) Where the corporation of a city or town has entered into a contract with The Hydro-Electric Power Commission of Ontario for the supply of electrical power or energy a commission shall be established under this Part for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of such electrical power or energy and for the purposes of this subsection it shall not be necessary that the by-law receive the assent of the electors, or such control and management shall be entrusted to an existing public utilities commission, and, where the commission is not entrusted with the control and management of any other public utility, it shall be called "The Hydro-Electric Commission of the (*naming the municipality*)".

Special Act not affected.

(4) Subsection 3 shall be subject to any special Act providing for the control and management of such works.

Certain by-laws not to be repealed.

(5) A By-law of the council, for the purposes mentioned in subsection 3, shall not be repealed without the consent of The Hydro-Electric Power Commission of Ontario.

Provision for management of sewerage system.

Rev. Stat., c. 243.

(6) If no commission has been established under this Part to which the control and management of a sewerage system, to which paragraph 5 of section 396 of *The Municipal Act* applies, may be entrusted, a commission may be established under this Part for the control and management of the sewerage system, and the provisions of this Part shall apply to it. R.S.O. 1937, c. 286, s. 35.

Powers of commission.

41.—(1) Subject to subsection 4, where a commission has been established under this Part and the members thereof have been elected or where the control and management of any other public utility works are entrusted to a commission established under this Part, all the powers, rights, authorities and privileges which are by this Act conferred on a corporation shall, while the by-laws for establishing the commission or entrusting it with the control and management remain in force, be exercised by the commission and not by the council of the corporation.

Officers of corporation to hold office.

(2) The officers and employees of the corporation shall be continued until removed by the commission unless their engagement sooner terminates.

During pleasure.

(3) Every officer, employee and servant of a commission shall hold office during the pleasure of the commission.

Council to provide money required for works.

(4) Nothing contained in this section shall divest the council of its authority with reference to providing the money required for the works, and the treasurer of the municipality shall, upon the certificate of the commission, pay out any

money so provided, nor shall anything in this Act divest the council of the rights and powers conferred upon it by *The Local Improvement Act*. R.S.O. 1937, c. 286, s. 36. Rev. Stat., c. 215.

(5) Where the construction or control and management of a public utility works belonging to a municipal corporation is entrusted to a commission, Limitations on powers of commission.

(a) no part of the works shall be undertaken in or extended into and no supply of the public utility shall be furnished to or in any other municipality by the commission without the consent of the council of the corporation to which the public utility works belong; and

(b) no extensions, additions, enlargements, improvements or alterations in, of or to the works shall be undertaken by the commission without the consent of the council of the corporation to which the public utility works belong, if the cost or any part of the cost is intended to be provided for out of moneys which under section 35 are required to be paid to the treasurer of the municipality. 1949, c. 85, s. 2.

42.—(1) A commission established under this Part shall be a body corporate and shall consist of three or five members as may be provided by the by-law, of whom the head of the council shall be one *ex officio* and the others shall be elected at the same time and place and in the same manner as the head of the council, and subject to subsection 3 the elected members shall hold office for two years and until their successors are elected and the new commission is organized. R.S.O. 1937, c. 286, s. 37 (1). Number of commissioners.

(2) When the commission functions in a defined area or areas, the members to be elected shall be elected by the electors of the area or areas, as the case may be. 1947, c. 90, s. 2. Areas.

(3) One-half of the first elected members shall hold office for two years and the other one-half for one year, and shall continue in office until their successors are elected and the new commission is organized. Term of office.

(4) At the first meeting of the commission after the first election the members who are to hold office for two years shall be chosen by lot. R.S.O. 1937, c. 286, s. 37 (2, 3). Term of office to be determined by lot.

(5) Where a commission has been in existence for not less than five years, the council of the corporation may by by-law provide that from the time of the municipal elections next ensuing the number of members of the commission, Increasing or decreasing number of commission members.

- (a) if it consists of three members, shall be increased to five members; or
- (b) if it consists of five members, shall be decreased to three members,

subject, however, to the assent of the electors if the existing number of members was established by a by-law passed with the assent of the electors.

Where the number is increased.

(6) Where the number of members of a commission is to be increased to five members the elected member then holding office for a term which does not expire until the end of the next succeeding year shall not be affected and he may continue to hold office until the expiration of the term for which he was elected, and at the municipal elections next ensuing after the by-law is passed three members of the commission shall be elected of whom the two elected who receive the highest number of votes shall hold office for a term of two years and until their successors are elected and the third elected shall hold office for a term of one year and until his successor is elected.

Where the number is decreased.

(7) Where the number of members of a commission is to be decreased to three members, that one of the two members last elected for a term of two years who received the higher number of votes shall continue to hold office until the expiration of the term for which he was elected and the other three members shall hold office until the expiration of the then current year only; and at the municipal elections next ensuing after the by-law is passed, one member of the commission shall be elected to hold office for a term of two years and until his successor is elected.

Acclamation or equality of votes.

(8) Where in subsection 6 or 7 it is provided that the term of office of any member be determined in relation to the number of votes he received at his election and such determination is impossible by reason of an acclamation to office or there having been an equality of votes at the election, the matter shall be determined by the casting of lots by the members affected.

Two-year term.

(9) At every election after the first municipal election the members or member to be elected as provided in subsection 6 or 7 shall be elected for a term of two years and until their respective successors are elected.

Head of council not affected.

(10) Nothing in subsections 5, 6, 7 and 9 shall affect the *ex officio* membership in a commission of the head of the council.

Future changes in commission membership.

(11) Where the number of members of a commission is increased or decreased by a by-law passed under subsection 5, no further change in the number of members shall be made

until the by-law has been in force for not less than five years.
1949, c. 85, s. 3.

(12) Except where otherwise expressly provided, the provisions of Parts II, III and IV of *The Municipal Act* which are applicable to members of the council of a local municipality shall apply *mutatis mutandis* to the commissioners to be elected under this Part. R.S.O. 1937, c. 286, s. 37 (4). Mode of election.
Rev. Stat., c. 243.

43.—(1) Where a vacancy in the commission occurs from any cause the council shall immediately appoint a successor who shall hold office during the remainder of the term for which his predecessor was elected. Filling of vacancies.

(2) A majority of the commissioners shall constitute a quorum of the commission. R.S.O. 1937, c. 286, s. 38. Quorum.

44.—(1) The salary, if any, of the commissioners shall from time to time be fixed by the council and no member of the council, except the head thereof, shall at the same time be a member of the commission. Salary of commissioners.

(2) Where a commission is established that has the control and management of works constructed for the distribution of electrical power or energy supplied by The Hydro-Electric Power Commission of Ontario, the salary or other remuneration of the commissioners, so far as it is chargeable to such works, shall be subject to the approval of The Hydro-Electric Power Commission of Ontario, and when the approval has been given the salary or other remuneration shall not be changed or discontinued by the council without the consent of The Hydro-Electric Power Commission of Ontario. Approval of salaries by Power Commission.

(3) Where a commission is established that has the control and management of works constructed for the distribution of electrical power or energy supplied by The Hydro-Electric Power Commission of Ontario and also the control and management of works for one or more other public utilities, no utility shall be charged with more than its *pro rata* share, according to the number of utilities operated, of any costs, charges and expenditures incurred or made by the commission for any joint purpose, including rents and the salaries of the joint employees without the consent and approval of The Hydro-Electric Power Commission of Ontario. Approval of commission as to share of costs.

(4) Where electrical power or energy received under contract from The Hydro-Electric Power Commission of Ontario is being distributed in a municipality the electric utility shall not be charged with more than its *pro rata* share approved by The Hydro-Electric Power Commission of Ontario of any costs, charges and expenditures incurred or made jointly for Approval of Power Commission as to sharing cost with municipality.

the purpose of the utility and for any other municipal purpose including in such costs, charges and expenditures all rents and the salaries and wages of joint employees. R.S.O. 1937, c. 286, s. 39.

Repeal of
by-law.

45.—(1) The council may, by by-law passed with the assent of the municipal electors, repeal any by-law passed under sections 38, 39 and 40.

Apportion-
ment of
salaries.

(2) Where a by-law is repealed the council shall apportion the current year's salary of the commissioners, and any officer or employee of the commission shall be continued until removed by the council unless his engagement sooner terminates. R.S.O. 1937, c. 286, s. 40.

Book and
accounts.

46.—(1) Separate books and accounts of the revenues derived from every public utility under its management shall be kept by the commission, and such books and accounts shall also be kept separate from the books and accounts relating to the other property, funds, or assets connected with such public utility, and such books and accounts shall be open to inspection by any person appointed for that purpose by the council.

Idem.

Rev. Stat.,
c. 96.

(2) Subsection 1 shall be subject to section 9 of *The Department of Municipal Affairs Act*. R.S.O. 1937, c. 286, s. 41.

Annual
statement
to council.

47.—(1) The commission shall on or before the 1st day of April in each year or upon such other day as the council may direct, furnish to the council a statement of affairs of each public utility undertaking, including in respect of each undertaking,

- (a) the number of customers supplied during the previous calendar year;
- (b) a balance sheet of assets and liabilities, including the value of the physical property, the amount of the sinking fund and the amount of current assets, also the amount of outstanding debentures and of current liabilities;
- (c) a statement of revenue and expenditure, including the amount received from customers and the amount of other revenue, if any, also the amount expended for operation and maintenance, improvements and extensions, and for salaries and other office and management expenses, and the amount paid or set aside for interest, principal and sinking fund on the debentures.

Information
for council.

(2) The commission shall also furnish such information as may be required by the council at any time.

(3) The accounts of the commission shall be audited by the Audit of accounts. auditors of the corporation, and the commission and its officers shall furnish to the auditors such information and assistance as may be in their power to enable the audit to be made.

(4) The commission may, if it so desires, appoint auditors Commission's auditors. to audit the accounts of the commission, the expense to be borne by the utility. R.S.O. 1937, c. 286, s. 42.

48. A book wherein shall be recorded all the proceedings Records of proceedings. of the commission shall be kept and shall be open to inspection by any person appointed for that purpose by the council. R.S.O. 1937, c. 286, s. 43.

PART IV

ALL MUNICIPAL AND COMPANY PUBLIC UTILITIES

49. This Part shall apply to all municipal or other cor- Application of Part: porations owning or operating public utilities. R.S.O. 1937, c. 286, s. 45.

50.—(1) Any person authorized by the corporation for Inspection of premises. that purpose shall have free access, at all reasonable times, and upon reasonable notice given and request made, to all parts of every building or other premises to which any public utility is supplied for the purpose of inspecting or repairing, or of altering or disconnecting any service pipe, wire or rod, within or without the building, or for placing meters upon any service pipe or connection within or without the building as he may deem expedient and for that purpose or for the purpose of protecting or regulating the use of the meter, may set it or alter the position of it, or of any pipe, wire, rod, connection or tap, and may alter or disconnect any service pipe.

(2) The corporation may fix the price to be paid for the Prices for use of meters. use of the meter, and the times when and the manner in which the price shall be payable, and may also recover the expense of such alterations, and such price and the expense of such alterations may be collected in the same manner as rents or rates for the supply of a public utility.

(3) Where a consumer discontinues the use of the public Removal of fittings from premises of consumers. utility, or the corporation lawfully refuses to continue any longer to supply it, the officers and servants of the corporation may, at all reasonable times, enter the premises in or upon which the consumer was supplied with the public utility, for the purpose of cutting off the supply of the utility or of making an inspection from time to time to determine whether the utility has been or is being unlawfully used or for the purpose

of removing therefrom any fittings, machines, apparatus, meters, pipes or other things being the property of the corporation in or upon the premises, and may remove the same therefrom, doing no unnecessary damage.

Power to
require
security from
consumer.

(4) Any corporation before supplying any public utility to any person or to any building or premises, or as a condition of continuing to supply the utility, may require any consumer to give reasonable security for the payment of the proper charges therefor or for carrying the public utility into the building or premises. R.S.O. 1937, c. 286, s. 46.

Property of
corporation
exempt
from
distress.

51. No property of the corporation used for or in connection with the supply of any public utility shall be liable to be seized for rent due to the landlord of any land or building whereon or wherein the property may be or under execution against the owner or occupant of the land or building. R.S.O. 1937, c. 286, s. 47.

Liability of
persons
doing
damage.

52. Every person who, by act, default, neglect or omission occasions any loss, damage or injury to any public utility works, or to any plant, machinery, fitting or appurtenances thereof shall be liable to the corporation therefor. R.S.O. 1937, c. 286, s. 48.

Penalty for
wilful
damage.

53. Every person who wilfully or maliciously damages or causes or knowingly suffers to be damaged any meter, lamp, lustre, service pipe, conduit, wire, rod or fitting belonging to the corporation, or wilfully impairs or knowingly suffers the same to be altered or impaired, so that the meter indicates less than the actual amount of the public utility which passes through it, shall be guilty of an offence and shall be liable to a penalty, to the use of the corporation, for every such offence, of not less than \$4 and not more than \$20, and shall also be liable for the expenses of repairing or replacing the meter, lamp, lustre, service pipe, conduit, wire, rod or fitting and double the value of the surplus public utility so consumed, all of which, including the penalty, shall be recoverable under *The Summary Convictions Act*. R.S.O. 1937, c. 286, s. 49.

Rev. Stat.,
c. 379.

Penalty for
injuring
public
utility
works.

54. Every person who wilfully extinguishes any public lamp or light, or wilfully removes, destroys, damages, fraudulently alters or in any way injures any pipe, conduit, wire, rod, pedestal, post, plug, lamp or other apparatus or thing belonging to the corporation shall be guilty of an offence and shall be liable to a penalty, to the use of the corporation, of not less than \$4 and not more than \$20, and shall also be liable for all damages occasioned thereby, all of which shall be recoverable under *The Summary Convictions Act*. R.S.O. 1937, c. 286, s. 50.

55. Where there is a sufficient supply of the public utility the corporation shall supply all buildings within the municipality situate upon land lying along the line of any supply pipe, wire or rod, upon the request in writing of the owner, occupant or other person in charge of any such building.

Corporation to supply buildings on line of supply, on request.

R.S.O. 1937, c. 286, s. 51.

56.—(1) Main pipes or conduits for carrying or conveying any public utility underground in any highway, lane or public communication shall not be laid down therein by a municipal corporation or company within the distance of six feet of the main pipes or conduits for carrying or conveying any public utility underground of any person without the consent of such person or the authority of the Ontario Municipal Board.

Prohibition as to laying main pipes and conduits within 6 feet of existing ones.

(2) The Board, upon the application of the corporation or company, and after notice to such person and hearing any objections which may be made, may authorize the main pipes or conduits to be laid down within such distance less than six feet as may be deemed proper, and all main pipes and conduits laid down in accordance with such authority shall be deemed to have been laid down under statutory authority and to be lawfully laid down, and may be maintained and operated by the corporation or company without its incurring any liability to such person in respect of the construction, maintenance or operation of them, except that provided for by subsection 5, any general or special statute or law to the contrary notwithstanding.

Ontario Municipal Board may grant leave to lay pipes within less than 6 feet.

(3) Such authority may be granted subject to such conditions as the Board may deem necessary to prevent injury to the main pipes or conduits of such person, or to such person, his servants and workmen, in maintaining, repairing and operating them.

Conditions.

(4) The powers conferred by this section may be exercised from time to time as occasion may require.

Exercise of powers.

(5) If any damage or injury is done to the main pipes or conduits of such person, or is occasioned in the maintenance of them, by reason of the main pipes or conduits of the corporation or company being laid down at a less distance than six feet from the main pipes or conduits of such person, no action shall lie in respect thereof, but the corporation or company doing such damage or injury shall make due compensation therefor, and any question or dispute as to such damage or injury having been so done or occasioned, or as to the amount of compensation, shall be determined by arbitration, and the provisions of *The Municipal Act* shall apply *mutatis mutandis*.

Compensation for damages.

Rev. Stat., c. 243.

Claim for
damages.

(6) The person claiming damages shall, within one month after the expiration of any calendar year in which he claims that any such damage or injury has been so done or occasioned, give notice in writing to the corporation of his claim and the particulars thereof, and upon failure to do so, the right to compensation in respect of the damage or injury done or occasioned during that calendar year shall be forever barred. R.S.O. 1937, c. 286, s. 52.

Recovery of
penalties.
Rev. Stat.,
c. 379.

57. Except where otherwise expressly provided, all penalties imposed by or under this Act shall be recoverable under *The Summary Convictions Act*. R.S.O. 1937, c. 286, s. 53.

PART V

ALL COMPANY PUBLIC UTILITIES

Application
of Part.

58. This Part shall apply to every company incorporated for the purpose of supplying any public utility. R.S.O. 1937, c. 286, s. 54.

Conditions
precedent to
company
carrying on
business or
expropriat-
ing land.

Rev. Stat.,
c. 249.

59.—(1) The company shall not exercise any of its powers within a municipality unless a by-law of the council of the municipality has been passed with the assent of the municipal electors where such assent is required by *The Municipal Franchises Act* authorizing the company to exercise the power and the company when so authorized may exercise any of the powers of expropriation conferred on a municipal corporation by Parts I and II, if the power to expropriate is conferred on it by the letters patent incorporating the company or by supplementary letters patent.

Power to
carry pipes
through
land within
10 miles of
municipi-
pality.

Expropriation.

Rev. Stat.,
c. 331.

(2) Subject to subsection 1, a company may conduct any of its pipes or carry any of its works through the land of any person lying within 10 miles of the municipality for supplying which the company was incorporated.

(3) The powers of expropriation conferred on a company shall be exercised under and in accordance with *The Railways Act*. R.S.O. 1937, c. 286, s. 55.

Remedy for
price of
public utility
furnished.

60. If any person supplied with any public utility neglects to pay the rent, rate or charge due to the company at any of the times fixed for the payment thereof, the company, or any person acting under its authority, on giving 48 hours' previous notice, may stop the supply from entering the premises of the person by cutting off the service pipes or by such other means as the company or its officers may deem proper, and the company may recover the rent or charge due up to that time, together with the expenses of cutting off the supply, notwith-

standing any contract to furnish it for a longer time. R.S.O. 1937, c. 286, s. 56.

61. Where a natural gas company or natural gas transmitting company produces or transmits gas for export, the price or charge at which the same shall be supplied shall be subject to regulation by the Lieutenant-Governor in Council. R.S.O. 1937, c. 286, s. 57.

Charges by
exporting
gas com-
panies.

62. The provisions of sections 5, 6 and 7, except as to the manner of recovering charges and expenses, sections 9, 10 and 11 as to making agreements for a supply of water to a railway company or manufactory, and sections 13, 17, 18, 21, 22, 23 and 24, shall apply *mutatis mutandis*, to a company. R.S.O. 1937, c. 286, s. 58, *amended*.

General
powers.

PART VI

ACQUIRING WORKS FROM COMPANIES

63.—(1) Where a by-law of the council of an urban municipality is passed with the assent of the electors entitled to vote on money by-laws declaring that it is expedient to acquire the works of a company incorporated on or after the 10th day of March, 1882 for the purpose of supplying within the municipality any public utility, the corporation may take possession of the works of the company and all property used in connection therewith for the purposes of supplying the public utility, whether the works and property, or any of them, are within or without the municipality, and shall pay therefor at a valuation to be determined by arbitration under *The Municipal Act*, subject to the provisions hereinafter mentioned.

Municipalities may
acquire
works of
company on
payment
therefor.

(2) The arbitrators, in determining the amount to be paid for the works and property, shall first determine the actual value thereof, having regard to what they would cost if the works should be then constructed or the property then bought, making due allowance for deterioration, wear and tear, and all other proper allowances, and shall increase the amount so ascertained by ten per cent thereof, which increased sum the arbitrators shall award as the amount to be paid by the corporation to the company, with interest from the date of their award.

Rev. Stat.,
c. 243.

Mode of
computing
value.

(3) The amount shall be paid within six months from the date of the award, and the council shall take all requisite steps for providing the amount, and it shall not be necessary that a by-law passed for borrowing the amount shall receive the assent of the electors.

Time within
which
amount to
be paid.

Determina-
tion of
value
without
assent of
electors.

(4) The council may, without submitting the question to the vote of the electors, take the proceedings authorized by subsection 1 for determining the amount to be paid for the works and property, upon notice to the company that the corporation intends to acquire the works and property by arbitration under the provisions of this Act; but in such case any by-law for raising money to pay therefor shall require the assent of the electors and until the by-law is finally passed, the corporation shall not, unless with the consent of the company, take possession of the works or property, and in the event of the by-law not being passed, the corporation shall indemnify the company for all costs it has been put to in and about the arbitration.

Amount
may be
settled by
agreement.

(5) The council and the company may agree as to the amount to be paid for the works and property or any of them.

If amount
not paid,
rights of
company to
revive.

(6) If the amount awarded or agreed to be paid to the company is not paid within six months after the time at which it is payable, the company may resume possession of its works and property, and all its rights in respect thereof shall there-upon revive.

Existing
companies
may consent
to be bound
by above
provisions.

(7) Any company incorporated before the 10th day of March, 1882, may, by by-law, declare that the company consents to be bound by the provisions of this section, and upon the passing of the by-law, this section shall apply to the company.

Limitations
as to
by-laws.

(8) A by-law may be passed under subsection 1, with respect to a company incorporated before the 10th day of March, 1882, if an agreement has been made between the company and the corporation under which the corporation has the right at any time, or at any time after a date thereby fixed, not being later than ten years from the date of the agreement, to acquire the works of the company and all property used in connection therewith for such purposes, at a valuation to be determined by arbitration under *The Municipal Act*.

Rev. Stat.,
c. 243.

Certain
rights not
affected.

(9) Nothing in this section shall affect the right of a municipal corporation to acquire the works and property of any public utility company by agreement with the company, or any right of acquisition which has been or may be secured by any such corporation independently of the provisions of this section. R.S.O. 1937, c. 286, s. 59.

Power to
subscribe
for stock,
etc.

64.—(1) Subject to *The Municipal Act*, the corporation of any municipality which has power to construct such works, and in which the public utility works of a company are situate, may subscribe for shares or take stock in the company or may loan money to it on mortgage or otherwise or guarantee payment of money borrowed by it.

(2) The head of a municipality the corporation of which holds stock in any such company to the extent of one-tenth or more of the whole of the capital stock, shall be *ex officio* a director of the company so long as the corporation continues to hold stock to that extent. R.S.O. 1937, c. 286, s. 60. When the head to be a director.

PART VII

COMMISSION FOR RAILWAYS AND TELEPHONES

65. The council of a municipal corporation which owns or operates or is about to establish any of the following works: Commission to construct and manage railways and telephones.

(a) a railway, an electric railway, a street railway, or an incline railway;

(b) telephone systems or lines,

may, by by-law passed with the assent of the municipal electors, provide for entrusting the construction of the work and the control and management of it to a commission, to be called "The Public Service Commission of the (*naming the municipality*)" or to an existing public utilities commission established under this Act, and if such a by-law is passed, the provisions of sections 35 and 38 to 48 shall apply *mutatis mutandis* to the commission to which the construction, control and management of the work are entrusted and to the work. R.S.O. 1937, c. 286, s. 65.

PART VIII

MISCELLANEOUS

66. Nothing in this Act shall affect sections 103 to 112 of *The Power Commission Act*, and they shall continue to apply to the cases to which they now apply. R.S.O. 1937, c. 286, s. 62. Certain provisions of Rev. Stat., c. 281 not affected.

67.—(1) After they have been submitted to and approved of by the Lieutenant-Governor in Council, by-laws may be passed by the councils of all municipalities to prohibit the sale or distribution within the municipality of natural or manufactured gas containing sulphuretted hydrogen. Prohibition of sale of gas containing sulphuretted hydrogen.

(2) If a company contravenes the provisions of any such by-law or after the passing of such by-law neglects or refuses to furnish a supply, sufficient for all public and private uses, of gas not containing sulphuretted hydrogen, any right, privilege or franchise which it possesses for the sale or distribution of natural or manufactured gas within the municipality shall *ipso facto* come to an end and be determined. Forfeiture of franchise for contravention of by-law.

Application
to Ontario
Municipal
Board for
declaration
as to con-
travention.

(3) The corporation may apply to the Ontario Municipal Board for a declaration that the company has contravened the provisions of the by-law, or that, after the passing of the by-law, it has neglected or refused to supply gas not containing sulphuretted hydrogen, as provided by subsection 2, and the Board on proof to its satisfaction that the company has done so may make the declaration, and the fact of such contravention or neglect or refusal shall be thereby conclusively established.

Right of
action to
restrain
sale.

(4) After the passing of the by-law, the corporation shall also have the right to bring and maintain an action to restrain the sale or distribution within the municipality of natural or manufactured gas containing sulphuretted hydrogen.

Removal of
mains, pipes.

(5) Upon application by a municipal corporation to the Ontario Municipal Board and upon proof of the sale or distribution of natural or manufactured gas containing sulphuretted hydrogen within the municipality after the passing of a by-law prohibiting the same, an order shall be made for the removal by the company so selling or distributing, of its conduits, mains, pipes and works from the municipality, but not including those used only for the purpose of transportation through the municipality to another municipality, and in default of such removal within the time limited by the order, then for the removal thereof by the corporation at the expense of the company.

Restoration
of condition
of highways.

(6) Upon such removal, the company shall restore the highways to as good a condition as they were in prior to the removal and in default thereof within the time limited by the order of the Ontario Municipal Board, the corporation may do so at the expense of the company, and the expense incurred by the corporation in such removal and restoration shall be recoverable in any court of competent jurisdiction.

Application
of section.

(7) This section shall apply to every company incorporated before or after the passing of this section and whether by special or general Act.

No action
for forfeiture
of franchise.

(8) No action shall lie or be maintainable by a company against any municipal corporation for or by reason or on account of the forfeiture under this section of any right, privilege or franchise of the company in the municipality. R.S.O. 1937, c. 286, s. 67.

CHAPTER 321

The Public Utilities Corporations Act

1. In this Act, "public utility" means any water works, gas works, electric heat, light or power works, telegraph and telephone lines, railways however operated, street railways and works for the transmission of gas, oil, water or electrical power or energy, or any similar works supplying the general public with necessities or conveniences. R.S.O. 1937, c. 262, s. 1.

2.—(1) Where the undertaking of a company operating a public utility incorporated under a general or special Act of this Legislature has been, since the 19th day of February, 1907, or hereafter is declared by the Parliament of Canada to be a work for the general advantage of Canada, or absorbed by or amalgamated with or controlled or operated by any other company whose undertaking is or has been declared a work for the general advantage of Canada, or which is not subject to the legislative control of Ontario, the Lieutenant-Governor in Council may declare that all or any of the powers, rights, privileges and franchises conferred upon the first-mentioned company by letters patent or by any general or special Act of this Legislature shall be forfeited and thereupon all such powers, rights, privileges and franchises so declared to be forfeited shall cease and determine, and every municipal by-law passed and every agreement entered into with any municipal corporation authorizing the company to carry on business or granting to it any right, privilege or franchise shall also thereupon become void and be of no effect, and the company shall forfeit all claim to any bonus or other aid granted by any municipal corporation or by this Legislature.

(2) Nothing in this section shall affect the validity of any debenture issued by a municipal corporation for payment of any such bonus in the hands of a *bona fide* holder for valuable consideration, nor the claim of any *bona fide* creditor of the company. R.S.O. 1937, c. 262, s. 2.

3.—(1) Notwithstanding anything in any Act, a municipal corporation shall not enter into any agreement with any such company or pass any by-law in relation to any public utility which has been declared to be a work for the general advantage

of Canada, or which is not within the legislative control of Ontario, until the Lieutenant-Governor in Council has approved of the agreement or by-law, and every agreement entered into and by-law passed in violation of this section shall be utterly void and of no effect.

Idem.

(2) The Lieutenant-Governor in Council may, from time to time, in advance of such agreements or by-laws, approve of any class or description of such agreements or by-laws in regard to any corporation named in the Order in Council. R.S.O. 1937, c. 262, s. 3.

CHAPTER 322

The Public Vehicles Act

1. In this Act,

Interpre-
tation.

- (a) "Board" means Ontario Municipal Board;
- (b) "compensation" includes any rate, remuneration, reimbursement or reward of any kind paid, payable or promised, or received or demanded, directly or indirectly;
- (c) "Department" means Department of Highways;
- (d) "highway" means highway as defined in *The Highway Traffic Act*; Rev. Stat.,
c. 167.
- (e) "Minister" means Minister of Highways;
- (f) "operating licence" means public vehicle operating licence issued under this Act;
- (g) "public vehicle" means a motor vehicle operated on a highway by, for or on behalf of any person for the transportation for compensation of passengers, or passengers and express freight which might be carried in a passenger vehicle, but does not include the cars of electric or steam railways running only upon rails, taxicabs, nor motor vehicles operated solely within the corporate limits of one urban municipality;
- (h) "regulations" means regulations made under this Act;
- (i) "taxicab" means a motor vehicle as defined in *The Highway Traffic Act*, having a seating capacity of not more than six persons, exclusive of the driver, hired for one specific trip for the transportation exclusively of one person or group of persons, one fare or charge only being collected or made for the trip;
- (j) "toll" means any fee or rate charged, levied or collected by any person for the carriage of passengers and express freight by a public vehicle;
- (k) "vehicle licence" means public vehicle licence issued under this Act. 1949, c. 86, s. 1.

2.—(1) Notwithstanding the provisions of any private Act, ^{Operating} no person shall conduct upon a highway by means of a public ^{licence} required.

vehicle the business of a carrier of passengers or passengers and express freight except under an operating licence. 1949, c. 86, s. 2 (1); 1950, c. 79, s. 16 (1).

Vehicle
licence
required.

(2) Notwithstanding the provisions of any private Act, no person shall operate a public vehicle unless the vehicle is licensed as a public vehicle under this Act. 1949, c. 86, s. 2 (2); 1950, c. 79, s. 16 (2).

Advertising
by unlicensed
persons.

(3) No person shall solicit by means of advertising, or otherwise undertake to arrange the transportation of passengers by means of a vehicle operated on a highway by, for or on behalf of any person who receives compensation, either directly or indirectly, for such transportation, unless the person by, for or on behalf of whom the vehicle is operated is licensed under this Act. 1949, c. 86, s. 2 (3).

Approval
of Board.

3.—(1) No operating licence shall be issued without the approval of the Board being first obtained as evidenced by the Board's certificate of public necessity and convenience furnished to the Minister, and then only in accordance with the certificate.

Renewal
of licence.

(2) The approval of the Board to a renewal of a licence shall not be required unless the Minister refers the application for renewal to the Board.

Transfer
of licence.

(3) The Minister may refer any application for the transfer of an operating licence to the Board.

Alteration
of licence.

(4) The Minister may at any time refer an operating licence to the Board with a recommendation that the terms and conditions of the licence be reviewed.

Powers of
Board.

(5) On any application or reference to the Board, the Board shall have and may exercise all powers necessary for the purposes of this Act, and may give such certificate and make such order as it deems just. 1949, c. 86, s. 3.

Issue of
licences.

4. Operating and vehicle licences shall be issued by the Minister and shall be subject to the regulations and the terms and conditions in the licence. 1949, c. 86, s. 4.

Special
rights.

5. An operating licence may confer special, exclusive or limited rights with respect to the operation of public vehicles and with respect to any highway or highways or portions thereof described in the licence. 1949, c. 86, s. 5.

Number of
passengers
and tonnage
of freight.

6.—(1) A vehicle licence may fix the number of passengers or tonnage of express freight, or both, that the vehicle may carry, and subject to subsection 1 of section 15 no vehicle shall at any time carry more passengers or more tonnage than is fixed by the licence.

(2) Every public vehicle shall, while operated on a highway, have attached thereto and exposed in a conspicuous position a licence plate issued by the Minister showing in plain figures the number of the vehicle licence issued for the vehicle for the current year. 1949, c. 86, s. 6.

Licence plate to be plainly exposed.

7.—(1) Subject to subsections 2 and 3, a person holding an operating licence may operate his vehicle in and through any municipality covered by the licence, without holding a licence or complying with the rates or fares prescribed under any by-law of any such municipality.

Municipal licence and fares, when not applicable;

(2) Where such a person takes on passengers or express freight within the limits of an urban municipality and discharges such passengers or express freight within the limits of that municipality, he may be required to obtain a licence under a by-law of that municipality and shall, as to such passengers and express freight, comply with any tariff of fares or rates established by by-law of that municipality.

when applicable.

(3) The council of any such municipality may, with the approval of the Minister, designate by by-law the streets within the municipality over which the person holding the licence may operate his vehicle. 1949, c. 86, s. 7.

Designation of streets.

8. The council of any city may pass a by-law requiring a person holding an operating licence who operates a public vehicle over a route partly within and partly without the limits of the city to pay to the city a fee or charge not being in the nature of a licence fee, and the by-law shall not come into effect until approved by the Minister who shall fix the fee to be charged. 1949, c. 86, s. 8.

Payment of annual charge to city.

9.—(1) No tolls shall be charged until a tariff thereof has been filed with and approved by the Minister, nor shall any tolls be charged under any tariff or portion thereof not approved by the Minister.

Tolls.

(2) A tariff of tolls approved by the Minister shall be subject to revision by the Minister at any time, and no tolls shall thereafter be charged except in accordance with the revised tariff. 1949, c. 86, s. 9.

Tariffs subject to revision by Minister.

10. The Minister may at any time cancel or suspend any licence by reason of a breach of this Act or *The Highway Traffic Act* or of the regulations hereunder or thereunder, or for any reason set out in the regulations. 1949, c. 86, s. 10.

Cancellation and suspension of licences.

Rev. Stat., c. 167.

11. No operating licence shall be transferred except with the written approval of the Minister. 1949, c. 86, s. 11.

Transfer of licences.

Prohibition
as to
drinking.

12. No driver or operator of a public vehicle carrying passengers shall drink any intoxicating liquor during the time he is on duty, or at any time use intoxicating liquor to excess. 1949, c. 86, s. 12.

Smoking.

13. No driver or operator of a public vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance while driving the vehicle. 1949, c. 86, s. 13.

Right of
person to be
transported.

14. Subject to the conditions of the operating licence, no driver or operator of any public vehicle shall refuse to carry any person offering himself at any regular stopping place for carriage and who tenders the regular fare to any regular stopping place on the route of the vehicle or between the termini thereof, unless at the time of such offer the seats of the vehicle are fully occupied, but the driver or operator of a public vehicle may refuse transportation to any person who is in an intoxicated condition or conducting himself in a boisterous or disorderly manner or is using profane or obscene language. 1949, c. 86, s. 14.

Passengers
not to be
allowed on
running
board, etc.

15.—(1) No driver or operator shall allow passengers to ride on the running boards, fenders or any part of a public vehicle other than the seats thereof, except that a vehicle may carry as standing passengers in the aisles thereof not more than one-third the number of persons for which seats are provided.

Restrictions
as to seating.

(2) No driver or operator of a public vehicle shall permit or allow on the front seat of the vehicle more passengers than the seat is designed to carry, exclusive of the driver, or permit or allow any passenger to occupy any other portion of the vehicle forward of the back of the driver's seat.

Beside
driver.

(3) No passenger shall be allowed to sit on the front seat to the left of the driver of a left-hand drive motor vehicle, or to the right of the driver of a right-hand drive motor vehicle. 1949, c. 86, s. 15.

Trailers
prohibited.

16. Except when specially authorized by the Minister, no person shall operate a public vehicle with any trailer or other vehicle attached thereto, but where a vehicle becomes disabled on a trip and is unable to proceed on its own power, the vehicle may be towed to the nearest point where repair facilities are available. 1949, c. 86, s. 16.

Luggage.

17. A public vehicle shall not carry or transport any luggage, baggage, package, trunk, crate or other load which extends beyond the running board of the vehicle. 1949, c. 86, s. 17.

18. Every public vehicle shall have at least two doors or Exits. exits, one of which, to be used only in an emergency, shall be at the rear of the vehicle or near the rear on the left side of the vehicle. 1949, c. 86, s. 18.

19. Every person licensed under this Act shall provide or Insurance. effect and carry such insurance or bond as is prescribed by the regulations. 1949, c. 86, s. 19.

20.—(1) Every insurer who has issued a policy of insurance in accordance with section 19 shall issue a certificate Certificate of insurance. thereof which shall be filed with the Minister.

(2) Such certificate shall be deemed to be a conclusive Effect of certificate. admission by the insurer that the policy has been issued and is in accordance with the terms of the certificate.

(3) Every insurer shall notify the Minister in writing of the cancellation or expiry of any policy, for which a certificate Notice of cancellation or expiry of insurance. has been issued, at least 30 days before the effective date of the cancellation or expiry, and in the absence of such notice of cancellation or expiry the policy shall remain in full force and effect. 1949, c. 86, s. 20.

21. A bond issued in accordance with section 19 shall not Cancellation or expiry of bond. be cancelled or expire except after 30 days' written notice to the Minister, but not after the happening of an injury or damage secured by the bond as to such accident, injury or damage, and the bond shall be filed with the Minister. 1949, c. 86, s. 21.

22.—(1) Every person who contravenes any of the provisions of this Act or the regulations shall be guilty of an Offences and penalties. offence and on summary conviction shall be liable to a penalty of not less than \$20 and not more than \$200. 1949, c. 86, s. 22 (1, 3).

(2) Every money penalty so imposed shall be paid over to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. 1949, c. 86, s. 22 (2). Disposition of penalties.

23. No prosecution shall be instituted under this Act Consent to prosecutions. without the consent of a member of the Ontario Provincial Police Force or of an officer of the Department designated by the Minister to assist in the enforcement of this Act. 1949, c. 86, s. 23.

24. The Lieutenant-Governor in Council may make Regulations. regulations,

- (a) governing the issue, renewal, transfer, suspension and cancellation of licences;
 - (b) prescribing fees and the basis for computing fees, and respecting payment thereof;
 - (c) prescribing terms and conditions to which licences shall be subject;
 - (d) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons licensed under this Act;
 - (e) prescribing the terms and conditions of cancellation, expiry, renewal, extension and notice of cancellation respecting such insurance or bonds;
 - (f) governing the filing of bonds and certificates of insurance;
 - (g) respecting the publication, filing and posting of tariffs of tolls, and the payment of tolls;
 - (h) providing for the examination of public vehicles, their contents and equipment by officers of the Department and members of the Ontario Provincial Police Force;
 - (i) prescribing, regulating and limiting the hours of labour of drivers of public vehicles;
 - (j) prescribing the qualifications of drivers of public vehicles;
 - (k) prescribing the condition in which public vehicles shall be kept, and prescribing the equipment to be carried by public vehicles and the condition and location in which the equipment shall be kept;
 - (l) defining chartered trips, special trips and school buses and prescribing special terms and conditions with respect to such trips and buses;
 - (m) providing for the delegation to an officer of the Department of such of the powers and duties of the Minister as may be deemed necessary;
 - (n) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1949, c. 86, s. 24.
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CHAPTER 323

The Public Works Act**1. In this Act,**Interpreta-
tion.

- (a) "Board" means Ontario Municipal Board;
- (b) "conveyance" includes a surrender to the Crown;
- (c) "Department" means Department of Public Works;
- (d) "judge" means judge of the county or district court of the county or district in which the land or property or any part thereof entered upon, taken or appropriated under this Act is situate, or a judge of the High Court;
- (e) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;
- (f) "lease" includes an agreement for a lease;
- (g) "Minister" means Minister of Public Works;
- (h) "owner" includes a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested;
- (i) "public work" means the dams, hydraulic works, hydraulic privileges, harbours, wharfs, piers, docks and works for improving the navigation of any water, the lighthouses and beacons, the slides, dams, piers, booms and other works for facilitating the transmission of timber, the roads and bridges, the public buildings, the telegraph lines, government railways, canals, locks, drydocks, and all other property belonging to Ontario, and includes all works and properties acquired, constructed, extended, enlarged, repaired, equipped or improved at the expense of Ontario, or for the acquisition, construction, repairing, equipping, extending, enlarging or improving of which any public money is appropriated by the Legislature, and every work required for any such purpose, but not any work for which money is appropriated as a subsidy only;

- (j) "registry office" includes land titles office and means the registry or land titles office for the registry division or locality within which the land is situate;
- (k) "superintendent" means the superintendent of the public work of which he has, under the Minister, the charge and direction;
- (l) "surrender" includes a conveyance to the Crown, or to the Minister, or to any officer of the Department, in trust for or to the use of the Crown. R.S.O. 1937, c. 54, s. 1; 1939, c. 47, s. 30 (1, 2).

Department
and
Minister.

2. There shall be a Department of Public Works, over which the Minister shall preside. R.S.O. 1937, c. 54, s. 2.

Deputy
Minister.

3. A Deputy Minister of Public Works shall be appointed by the Lieutenant-Governor in Council who shall perform such duties as may be assigned to him by the Lieutenant-Governor in Council or by the Minister. R.S.O. 1937, c. 54, s.3.

Other officers
and servants.

4. The Lieutenant-Governor in Council may also appoint an architect, an engineer, a secretary, a law clerk, an accountant, and as many other officers and servants as from time to time may be deemed necessary for the proper conduct of the business of the Department and for the construction, maintenance, use and repair of public works and all property real and personal connected therewith or under its control, and all such officers and servants shall have such powers and perform such duties as may be assigned to them by the Lieutenant-Governor in Council or by the Minister. R.S.O. 1937, c. 54, s. 4.

Powers and
duties of the
Minister.

5.—(1) The Minister shall have the management of the Department, shall oversee and direct the officers and servants thereof and may suspend from duty any officer or servant.

Require-
ments as to
contracts.

(2) The Minister may enter into any contract or agreement that he may deem advisable in carrying out the provisions of this Act; but no contract or agreement shall be binding upon the Crown or be deemed to be the act of the Minister unless signed by him and sealed with the seal of the Department.

Tenders for
public works.

(3) The Minister shall, by public advertisement, invite tenders for the construction or repair of all public works, except in cases of pressing emergency, where delay would be injurious to the public interest, or where from the nature of

the work, it can be more expeditiously or economically executed by the officers and servants of the Department, or by day labour.

(4) Where a public work is being carried out by contract, the Minister shall take reasonable care that security be given to and in the name of His Majesty for the due performance of the work within the amount and time specified for its completion, and in all cases where the Minister deems it inexpedient to let the work to the lowest bidder, he shall report the same and obtain the authority of the Lieutenant-Governor in Council before passing by a lower tender; but no sum of money shall be paid to a contractor, nor shall any work be commenced on any contract until the contract has been signed by all the parties thereto, nor until the requisite security has been given. Security from contractors.

(5) The Minister may require any account sent in by any person employed by the Department to be attested on oath. Attestation of accounts.

(6) The Minister may send for and examine on oath all such persons as he may deem necessary touching any matter upon which his action is or may be required, and may cause such persons to bring with them such papers, plans, books, documents and things as it may be necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements and every such person shall attend at the summons of the Minister after due notice, and in default shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20. Power to hold inquiry on oath.

(7) The Minister shall submit to the Lieutenant-Governor an annual report of all the works under the control of the Department, showing the state of each work, the amounts expended in respect thereof, and such further information as may be requisite to enable the Assembly to judge of the work of the Department. Annual report of Minister.

(8) Such report shall be laid before the Assembly within twenty-one days after the commencement of the next session. Presentation.
R.S.O. 1937, c. 54, s. 5.

6. Where any payment is to be made by the Minister under the authority of this Act it shall be made out of such money as may be appropriated by the Legislature for that purpose, and not otherwise, and the Minister shall not be personally liable therefor, or for any proceedings had or taken by virtue of this Act. R.S.O. 1937, c. 54, s. 6. Payments under this Act.

What property, etc., to be under control of Department.

7. All public works constructed or completed at the expense of Ontario, all land, streams, watercourses and property, real or personal, acquired for the use of public works, and

- (a) all canals, locks, dams, hydraulic works, harbours, piers and other works for improving the navigation of any water;
- (b) all slides, dams, piers, booms and other works for facilitating the transmission of timber;
- (c) all hydraulic powers created by the construction of any public works;
- (d) all roads and bridges, all public buildings, all railways and rolling stock thereon, all vessels, dredges, scows, tools, implements and machinery for the improvement of navigation, all drains and drainage works and all property acquired, constructed, repaired, equipped, maintained or improved at the expense of Ontario,

not under the control of the Government of Canada, shall unless otherwise provided by law be and remain vested in the Crown and under the control of the Department. R.S.O. 1937, c. 54, s. 7.

Power to sell.

8. Any property, real or personal, no longer required for the use of any public work, may be sold, leased or disposed of under the authority of the Lieutenant-Governor in Council. R.S.O. 1937, c. 54, s. 8.

Enforcement of contract.

9. Contracts respecting any public works or property, real or personal, under the control of the Department, entered into by the Minister, or by any other person duly authorized to enter into the same, shall enure to the benefit of the Crown, and may be enforced as if entered into with the Crown under the authority of this Act. R.S.O. 1937, c. 54, s. 9.

Who may bring action.

10. All actions and other proceedings for the enforcement of any contract, for the recovery of damages for any tort or breach of contract, or for the trial of any right, in respect of property, real or personal, under the control of the Department, shall be instituted in the name of the Attorney-General. R.S.O. 1937, c. 54, s. 10.

Possession of maps, etc., relating to public works.

11. The Minister may require any person having the possession of any map, plan, specification, estimate, report or other paper, book, drawing, instrument, model, contract, document, record or thing relating to any public work, and not being private property, to deliver the same without delay to the Department. R.S.O. 1937, c. 54, s. 11.

12. The Minister may himself, or by his engineers, superintendents, agents, workmen, or servants, for any purpose relative to the use, construction, maintenance or repair of a public work, or for obtaining better access thereto and without the consent of the owner, Power to enter on and use land.

- (a) enter into and upon any land to whomsoever belonging, and survey and take levels of the same, and make such borings, or sink such trial pits as he deems necessary;
- (b) enter upon, take and use any land, stream, water or watercourse;
- (c) enter with workmen, carts, carriages and horses, upon any land, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the land, or for the purpose of digging up, quarrying and carrying away earth, stone, gravel or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom;
- (d) make and use all such temporary roads to and from such timber, stone, clay, gravel, sand or gravel pits as are required by him for the convenient passing to and from the work during its construction or repair;
- (e) alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, railway, road, street, or way, or raise or sink the level of the same in order to carry them over or under, on the level of or by the side of the public work, as he thinks proper; but before discontinuing or altering any public road or any portion thereof, he shall substitute another convenient railway or road in lieu thereof, and the land theretofore used for the railway or road, or part of a railway or road so discontinued shall belong to the Crown and may be disposed of as to the Minister may seem proper; and
- (f) divert or alter the position of any water-pipe, gas-pipe, sewer, drain, or any telegraph, telephone or electric wire or pole. R.S.O. 1937, c. 54, s. 12.

13. The Minister may for and in the name of His Majesty purchase or acquire and, subject as hereinafter mentioned, may without the consent of the owner thereof enter upon, take and expropriate any land which he may deem necessary for Power to acquire land.

- (a) the public purposes of Ontario; or
- (b) the use or purposes of any Department of the Government thereof. R.S.O. 1937, c. 54, s. 13.

Restoration
and main-
tenance of
walls, fence.

14. Where it is deemed necessary, in the building, maintaining or repairing of a public work, to take down or remove any wall or fence of any owner of land adjoining the public work, or to construct any ditch or drain for carrying off water, such wall or fence shall be replaced as soon as the necessity which caused its taking down or removal has ceased, and after the same has been so replaced, or when such ditch or drain is completed, the owner shall maintain such wall or fence, ditch or drain to the same extent as he might be by law required to do, if such wall or fence had not been so taken down or removed, or such ditch or drain had always existed. R.S.O. 1937, c. 54, s. 14.

Sidings,
water pipes
and tracks.

15.—(1) Where any gravel, stone, earth, sand or water is taken at a distance from the public work, the Minister may lay down all necessary sidings, water pipes or conduits, or tracks in, over or upon any land intervening between the public work and the land on which such material or water is found, whatever the distance may be, and all the provisions of this Act, except such as relate to the filing of plans and descriptions, shall apply to obtaining the right of way from the public work to the land on which the materials are situate, and such right may be acquired for a term of years, or permanently, as the Minister may think proper.

Powers as to
repair and
mainten-
ance.

(2) The powers conferred by this section may be exercised, after the public work is constructed, for the purpose of repairing and maintaining the same. R.S.O. 1937, c. 54, s. 15.

Power to
employ
surveyor or
engineer.

16.—(1) The Minister may employ an Ontario land surveyor or an engineer to make any survey or establish any boundary and furnish the plans and descriptions of any property acquired or to be acquired by the Crown for a public work.

Establishing
boundaries.

(2) The boundaries of such properties may be permanently established by means of proper stone or iron monuments planted by the surveyor or engineer.

Effect.

(3) Such surveys, boundaries, plans and descriptions made, established or furnished by an engineer shall have the same effect to all intents and purposes as if the operations pertaining thereto or connected therewith had been performed and the boundaries had been established and the monuments planted by an Ontario land surveyor.

(4) Such boundaries shall be held to be the true and Confirmation. unalterable boundaries of the property, if,

- (a) they are so established, and the monuments of iron or stone so planted, after due notice of the intention to establish and plant the same has been given in writing to the proprietors of the land thereby affected; and
- (b) a written description of the boundaries is approved and signed in the presence of two witnesses by the engineer or surveyor on behalf of the Minister and by the person concerned; or, in case of the refusal of any proprietor to approve or to sign the description, the refusal is recorded in the description; and
- (c) the boundary marks or monuments are planted in the presence of at least one witness who shall sign the description.

(5) It shall not be incumbent on the Minister or those Discretion of Minister. acting for him to have boundaries established with the formalities in this section mentioned, but it may be resorted to whenever the Minister deems it necessary. R.S.O. 1937, c. 54, s 16.

17.—(1) Where the Minister desires to expropriate land Expropriation, plans and descriptions to be deposited in registry office. under the power conferred by this Act he shall deposit in the proper registry office a plan and description of the land signed by himself or by the deputy minister or by the secretary of the Department, or by the superintendent of the public work, or by an engineer of the Department, or by an Ontario land surveyor, and the land shall thereupon become and be vested in the Crown.

(2) Where the land is required for a limited time only, or Where land temporarily required, etc. only a limited estate, right or interest therein is required, the plan and description so deposited shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and by the deposit in such case, the right of possession for such limited time, or such limited estate, right or interest, shall become and be vested in the Crown.

(3) In case of any omission, misstatement or erroneous Correcting plans and descriptions. description in any plan or description, a correct plan and description may be deposited with like effect.

(4) A plan and description of any land at any time in the Plans and descriptions of land occupied by the Crown. occupation or possession of the Crown and used for the purposes of any public work, may be deposited at any time, in

like manner and with like effect as herein provided, saving always the lawful claims to compensation of any person interested therein.

Verification
of plans and
descriptions.

(5) In all cases, when any such plan and description, purporting to be signed by the deputy minister, or by the superintendent of the public work, or by an engineer of the Department, or by an Ontario land surveyor, is so deposited the same shall be deemed to have been deposited by the direction and authority of the Minister, and as indicating that in his judgment the land therein described is necessary for the purposes of the public work, and the plan and description shall not be called in question except by the Minister, or by some person acting for him or for the Crown. R.S.O. 1937, c. 54, s. 17.

When land
of Crown
is taken.

18. Where land appropriated for a public work is Crown land, under the control of the Government of Ontario, a plan of such land shall be deposited with the Department of Lands and Forests. R.S.O. 1937, c. 54, s. 18.

Contracts by
tenants in
tail, execu-
tors and
others.

19.—(1) Any tenant in tail or for life, guardian, tutor, curator, executor, administrator, committee or person, not only for and on behalf of himself, his heirs and assigns, but also for and on behalf of those whom he represents, whether married women, infants, issue unborn, mental incompetents, mental defectives, or other persons, seized, possessed or interested in any land or other property, may contract and agree with the Minister for the sale of the whole or any part thereof, and may convey the same to the Crown, and may also contract and agree with the Minister as to the amount of compensation to be paid for any such land or property, or for damages occasioned thereto, and may also act for and on behalf of those whom he represents in any proceeding for determining the compensation to be paid under this Act.

Representa-
tion of per-
son under
disability.

(2) Where there is no guardian or other person to represent a person under disability, the judge may, after due notice to the persons interested, appoint a guardian or person to represent for any of the purposes mentioned in subsection 1 the person under disability. R.S.O. 1937, c. 54, s. 19.

Warrant for
possession.

20.—(1) If any resistance or opposition is made by any person to the Minister, or to any person acting for him, entering upon and taking possession of the land or exercising any power in respect thereof, the judge may, on proof of the execution of a conveyance of the land to the Crown, or agreement therefor, or of the depositing in the proper registry office of a plan and description thereof as aforesaid, and after notice to show cause given in such manner as he prescribes, issue his warrant to the sheriff of the county or district within which the

land is situate directing him to put down such resistance or opposition, and to put the Minister, or some person acting for him, in possession thereof, or take such steps as may be necessary to enable him to exercise such power.

(2) The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance and opposition, and shall put the Minister, or such person acting for him, in possession thereof, and shall forthwith make return to the court of such warrant, and of the manner in which he executed the same. R.S.O. 1937, c. 54, s. 20.

21. The Minister shall make to the owner of land entered upon, taken or used by him or injuriously affected by the exercise of any of the powers conferred by this Act due compensation for any damages necessarily resulting from the exercise of such powers, beyond any advantage which the owner may derive from the contemplated work, and any claim for such compensation not mutually agreed upon, shall be determined as hereinafter provided. R.S.O. 1937, c. 54, s. 21.

22. Where land has been entered upon, taken or used by the Minister under the compulsory powers conferred by this Act the Minister shall, within sixty days after the registration of the plan and description of the land in the registry office, give notice to the owner,

- (a) if the owner is known and his residence is known, by serving upon or by mailing by registered post addressed to him at his last known place of abode a notice describing the land taken or the right or easement exercised or intended to be exercised in, upon or over the land, and the nature of the work to be done and the date of the registration of the plan and description and stating that every person having any claim to compensation, must file the same in the office of the Minister within six months after such registration, or, in the case of land injuriously affected, within six months after the injury complained of, or in the case of a continuing injury within one year from the time when the injury began or became known to him; or
- (b) if the owner is unknown or his residence is unknown, by the publication of a similar notice once a week for at least three weeks in some newspaper having a general circulation in the county or district in which the land affected is situate. R.S.O. 1937, c.54, s. 22, *amended*.

Compensation where land not expropriated.

23. When the Minister has exercised any of the compulsory powers conferred by this Act other than the power to expropriate land, he shall within sixty days after the exercise of such power, give notice similar to and in like manner as is provided for in section 22 and the provisions of section 26 as to claims to and for the determination of the compensation shall apply. R.S.O. 1937, c. 54, s. 23.

Time within which claim for compensation to be made.

24. Where the notice provided for by section 22 or 23 has been given, no claim of any kind for compensation in respect of land taken, used or injuriously affected in the exercise of the powers conferred by this Act shall be referred for determination under this Act unless the claim and the particulars thereof have been filed in the office of the Minister in the case of land taken within six months after the registration of the plan, or in the case of land injuriously affected within six months after the injury complained of, or in the case of a continuing injury within one year from the time when the injury began or became known to the claimant. R.S.O. 1937, c. 54, s. 24.

Power to take whole lot when part only required.

25. If the Minister is of opinion that he can obtain the whole of any lot or parcel of land of which any part may be expropriated by him at a more reasonable price or to greater advantage than by acquiring such part only he may expropriate the whole of the lot or parcel and also a right of way thereto, if the same is separated from the public work, and may afterwards sell and convey the same or any part thereof as he deems expedient. R.S.O. 1937, c. 54, s. 25.

Notice to determine amount of compensation.

26. The Minister and the owner may agree upon the amount of the compensation, or either party may give notice in writing to the other that he requires the amount of such compensation to be determined by arbitration under this Act. R.S.O. 1937, c. 54, s. 26.

Appointment before judge.

27. Subject to section 24, the judge upon application of the Minister or of the owner, may appoint in writing a time and place at which he will determine the amount of such compensation and may give such directions for the service of the appointment and as to the persons to be served as he shall deem proper. R.S.O. 1937, c. 54, s. 27.

Appointment before Ontario Municipal Board.

28. Where the Minister gives notice to the owner either before or after the service of the appointment upon him, that he desires that the compensation shall be determined by the Board instead of by the judge, the chairman of the Board shall give the appointment upon the like application and shall have power to give like directions as the judge might

have given under section 27 and the proceedings shall thereafter be taken before the Board. R.S.O. 1937, c. 54, s. 28.

29. Save as otherwise provided by this Act, *The Arbitration Act* shall apply to the proceedings taken under this Act before the judge. R.S.O. 1937, c. 54, s. 29.

Proceedings
before judge.
Rev. Stat.,
c. 20.

30. *The Ontario Municipal Board Act* shall apply to proceedings taken before that Board under this Act. R.S.O. 1937, c. 54, s. 30.

Proceedings
before
Board.
Rev. Stat.,
c. 262.

31.—(1) Where the amount of the claim exceeds \$500, the Minister or the claimant may by leave of the Court of Appeal, appeal to that Court from any determination or order of the judge or of the Board under this Act as to compensation.

Appeal to
Court of
Appeal.

(2) The leave may be granted on such terms as to the appellant giving security for costs and otherwise as the Court may deem just.

Terms.

(3) The practice and procedure as to the appeal and incidental thereto shall be the same *mutatis mutandis* as upon an appeal from a county court.

Procedure.

(4) The decision of the Court of Appeal shall be final. R.S.O. 1937, c. 54, s. 31 (1 - 4).

Finality.

(5) Section 98 of *The Ontario Municipal Board Act* shall not apply to any appeal under this section. R.S.O. 1937, c. 54, s. 31 (5); 1939, c. 47, s. 30 (3).

Rev. Stat.,
c. 262,
s. 98, not
to apply.

32. The compensation agreed upon or adjudged for any land or property acquired, taken, or used in or injuriously affected by the exercise of any of the powers conferred by this Act shall stand in the stead of the land or property, and any claim to or encumbrance thereon shall, as respects the Crown, be converted into a claim to or upon the compensation, and shall no longer affect the land or property so acquired, taken or used. R.S.O. 1937, c. 54, s. 32.

Character of
compensa-
tion.

33.—(1) Where at any time before the compensation has been actually ascertained or determined, land taken for a public work, or any part thereof, is found to be unnecessary for the purposes of such public work, or if it is found that a more limited estate or interest therein only is required, the Minister may, by writing under his hand, registered in the proper registry office, declare that the land or such part thereof is not required and is abandoned by the Crown, or

Right of
Crown to
abandon
land taken.

that it is intended to retain only such limited estate or interest as is mentioned in such writing, and thereupon,

- (a) the land declared to be abandoned shall revert in the person from whom it was taken or in those entitled to claim under him; or
- (b) in the event of a limited estate or interest therein being retained by the Crown, the land shall so revert subject to the estate or interest so retained.

Effect upon
compensa-
tion.

(2) Where part only of the land or all of it but a limited estate or interest therein is abandoned, the fact of such abandonment, and the damage, if any, sustained in consequence of that which is abandoned having been taken, and all the other circumstances of the case shall be taken into account in determining the amount to be paid to any person claiming compensation.

Damages
where
abandon-
ment
complete.

(3) Where the whole of the land taken is abandoned, the person from whom it was taken shall be entitled to all damages sustained and all costs incurred by him in consequence of the taking and abandonment, and the amount of the damages shall be determined in the manner provided by this Act, and if a reference as to compensation is pending shall be determined on such reference. R.S.O. 1937, c. 54, s. 33.

Payment of
compensa-
tion up to
\$100.

34. If the compensation agreed upon or adjudged does not exceed \$100, it may be paid to the person who under this Act may lawfully convey the land or property or agree as to the compensation, saving always the rights of any other person to the compensation as against the person receiving it. R.S.O. 1937, c. 54, s. 34.

Payment of
compensa-
tion into
Court.

35.—(1) In the cases provided for in section 19 the Minister shall, and, in all other cases if for any reason the Minister deems it advisable, he may pay the compensation into the office of the Accountant of the Supreme Court, with interest thereon at five per cent for six months.

Proceedings
after pay-
ment into
Court.

(2) A notice in such form and for such a time as a judge of the High Court may direct shall be published in such newspaper as the judge may order, stating that the land is purchased, acquired or taken by the Crown under this Act, and calling upon all persons entitled to the land or to any part thereof to file their claims to the compensation or any part thereof, and all such claims shall be adjudicated upon by the judge, and the judge shall make such order for the distribution, payment or investment of the compensation, and for securing the rights of all parties interested as to right and justice and to law appertains.

(3) If such order of distribution is obtained in less than Adjustment. six months after the payment of the compensation into Court, the judge may direct a proportionate part of the interest to be returned to the Minister, and if it is not obtained until after six months have expired the judge may order the Minister to pay interest for such further period as may be deemed just.

(4) Where unborn issue or an unascertained person or class Representa-
tion of
parties. are interested in the compensation, the judge may appoint such person as may be deemed proper to represent or act for them, and any order made shall be binding on them. R.S.O. 1937, c. 54, s. 35.

36. Every person who has any estate or interest in any Power of
Minister to
require
particulars. land or property acquired, taken or used in or injuriously affected by the exercise of any of the powers conferred by this Act, or who represents any such person, shall, upon demand made therefor by or on behalf of the Minister, furnish to the Minister a true statement showing the particulars of such estate and interest and of every charge, lien or encumbrance to which the same is subject, and of the claim made by such person in respect of such estate or interest. R.S.O. 1937, c. 54, s. 36.

37. If the injury to any land or property alleged to be When
reparation
by Crown
may be
ordered. injuriously affected by the exercise of any of the powers conferred by this Act may be removed wholly or in part by any alteration in, or addition to, any public work, or by the construction of any additional work, or by the abandonment of any part of the land taken from the claimant, or by the grant to him of any land or easement, and if the Crown before an award is made undertakes to make such alteration or addition, or to construct such additional work or to abandon such portion of the land taken, or to grant such land or easement, the damages shall be determined in view of such undertaking, and the judge or the Board, as the case may be, shall declare that, in addition to any damages awarded, the claimant is entitled to have such alteration or addition made, or such additional work constructed, or such part of the land abandoned, or such grant made to him. R.S.O. 1937, c. 54, s. 37.

38.—(1) Interest at the rate of five per cent per annum Interest
on compen-
sation
money. may be allowed on the compensation from the time when the land or property was taken, used or injuriously affected; but no person to whom a sum equal to or greater than the compensation has been offered in writing shall be allowed interest thereon for any time subsequent to the date of the offer. 1945, c. 21, s. 1.

When interest may be withheld.

(2) If the judge or the Board is of opinion that the delay in determining the compensation is attributable wholly or in part to any person entitled to the compensation or any part of it, or that he has not, upon demand, furnished to the Minister within a reasonable time a true statement of the particulars of his claim, the judge or the Board may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow the same at such rate less than five per cent per annum as may appear just. R.S.O. 1937, c. 54, s. 38 (2).

Claims arising under contracts may be made:

39.—(1) If any person has a claim arising out of or connected with, the execution or fulfilment, or in respect of deductions made for the non-execution or non-fulfilment of a contract for the execution of any public work entered into with the Minister, either in the name of His Majesty, or in any other manner, the person may give notice in writing of his claim to the Minister, stating the particulars thereof, and how the claim has arisen.

Claims may be referred to Board.

(2) The claim may be referred by the Minister to the Board for determination under this Act, but no claim shall be referred or be entertained unless within six months from the date of the completion of the contract or from the date of the last payment, made on account thereof, full particulars of the claim have been filed with the secretary of the Department.

When reference not allowed.

(3) No claim shall be so referred where by the terms of the contract the determination of any matters of difference arising out of or connected with the same are to be decided by the Minister or by some person named in the contract. R.S.O. 1937, c. 54, s. 39.

Payment of compensation or costs.

40. The Treasurer of Ontario may pay to any person, out of the Consolidated Revenue Fund, any sum to which, under this Act, he is entitled as compensation or for costs. R.S.O. 1937, c. 54, s. 40.

Interest and powers of the Crown.

41.—(1) All lands, streams, water-courses and property acquired for any public work shall be vested in the Crown and, when not required for the public work, may be sold, leased or otherwise disposed of under the authority of the Lieutenant-Governor in Council.

Hydraulic powers.

(2) All hydraulic powers created by the construction of any public work, or by the expenditure of public money thereon, shall be vested in the Crown, and any part not required for the public work may be sold, leased or otherwise disposed of under the authority of the Lieutenant-Governor in Council. R.S.O. 1937, c. 54, s. 41.

42. The Minister may employ engineers and surveyors to make examinations, surveys and levels of any swamp or bog land, or land occasionally or permanently flooded with water, and the engineers and surveyors shall be under the direction of the Department, and shall report to the Minister on the best means of draining or preventing the flooding of the land, the cost of the same, the quantity and quality of land proposed to be drained or saved from flooding, with an estimate of the improved value of the land. R.S.O. 1937, c. 54, s. 42.

Power to employ engineers, etc., to examine land for drainage, etc.

43. The Minister shall submit to the Lieutenant-Governor, in his annual report to be laid before the Assembly a statement of the results of such examination, surveys and levels, and an estimate of the cost of reclaiming the lands so as to render them available for cultivation, with his recommendation respecting the same. R.S.O. 1937, c. 54, s. 43.

Report of results.

44. The Minister may make contracts, in the manner hereinbefore prescribed, for the construction and repair of drains, bridges, roads, dams, dykes, slides and other works which he may deem necessary or proper to prevent the flooding of, or to carry off the water from, any such land, and to render the land available for cultivation. R.S.O. 1937, c. 54, s. 44.

Power to make certain contracts.

45.—(1) Where it has been ascertained, on the report of an engineer, that there exists, or is being or has been constructed, across a river, stream, or water-course, any mill-dam, embankment or obstruction which impedes, or which, in the opinion of the engineer, will impede the free discharge of the water from such swamp, bog or flooded land, the Minister may stop the construction thereof, or cause the same to be removed, or a slide to be constructed, as in his opinion may be most advisable, and if the owner of the mill-dam, embankment or obstruction, or any other person suffers damage in consequence of the stopping of its construction, or of its removal, or of the construction of any slide under this section, he shall be entitled to compensation to be agreed upon or determined under this Act, due regard being had to the previous rightful or wrongful action of the owner in constructing the mill-dam, embankment or obstruction, and the compensation shall be paid within six months after it has been agreed on or determined.

Power to remove obstructions on report of engineer.

(2) Every such slide shall be under the control of the Department, and the Minister, his engineers and agents, shall be entitled to free access to the slide at all reasonable times, and for all reasonable purposes, including the regulating of the discharge of water over the slide, and its repair. R.S.O. 1937, c. 54, s. 45.

Control of slides.

Saving
authority of
Legislature.

46. Nothing in this Act shall give authority to the Minister to incur any expenditure not previously sanctioned by the Legislature, except for such repairs and alterations as the immediate necessities of the public service demand. R.S.O. 1937, c. 54, s. 46.

Rev. Stat.,
1887, c. 36
not to apply
to certain
expenditure.

47. *The Ontario Drainage Act*, being Chapter 36 of the Revised Statutes of Ontario, 1887, shall not apply to expenditure under sections 42 to 45 upon lands in a provisional judicial district. R.S.O. 1937, c. 54, s. 47.

Application
of Act to
commission
appointed
by
Legislature.

48. This Act shall apply to public works constructed, operated or maintained by any commission appointed by or under the authority of the Legislature and to every such commission, and the like powers and duties as are by this Act imposed or conferred upon the Minister may be exercised and shall be performed by such commission in respect of matters entrusted to it, and in the application of this Act thereto where the word "Minister" or the word "Department" occurs, it means such commission. R.S.O. 1937, c. 54, s. 48.

CHAPTER 324

The Public Works Protection Act

1. In this Act,

Interpretation.

- (a) "guard" means a guard appointed under this Act;
- (b) "highway" means highway within the meaning of *Rev. Stat., c. 166.*
The Highway Improvement Act;
- (c) "public work" includes,
 - (i) any railway, canal, highway, bridge, power works including all property used for the generation, transformation, transmission, distribution or supply of hydraulic or electrical power, gas works, water works, public utility or other work, owned, operated or carried on by the Government of Ontario or by any board or commission thereof, or by any municipal corporation, public utility commission or by private enterprises;
 - (ii) any provincial and any municipal public building; and
 - (iii) any other building, place or work designated a public work by the Lieutenant-Governor in Council. 1939 (2nd Sess.), c. 10, s. 1, cls. (b - d).

2. Any guard or peace officer may,

Powers of guard or peace officer.

- (a) require any person entering or attempting to enter any public work or any approach thereto to furnish his name and address, to identify himself and to state the purpose for which he desires to enter such public work, in writing or otherwise;
- (b) search, without warrant, any person entering or attempting to enter a public work or any vehicle in the charge or under the control of any such person or which has recently been or is suspected of having been in the charge or under the control of any such person or in which any such person is a passenger; and

- (c) refuse permission to any person to enter any public work, and may use such force as is necessary to prevent any such person from so entering. 1939 (2nd Sess.), c. 10, s. 2.

Refusal to
obey guard,
etc., penalty.

3.—(1) Every person who neglects or refuses to comply with any request of direction made under this Act by a guard or peace officer, and any person found upon any public work or any approach thereto without lawful authority the proof whereof shall lie on him, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 or to imprisonment for a term of not more than two months, or to both. 1939 (2nd Sess.), c. 10, ss. 3 (1), 9.

Arrest.

(2) Any guard or peace officer may arrest, without warrant, any person who neglects or refuses to comply with any request or direction of any guard or peace officer, or who is found upon or attempting to enter any public work without lawful authority. 1939 (2nd Sess.), c. 10, s. 3 (2).

Statement
under oath
to be con-
clusive
evidence.

4. For the purposes of this Act the statement under oath of an officer or employee of the government, board, commission, municipal or other corporation or other person owning, operating or having control of a public work, as to the boundaries of such public work shall be conclusive evidence thereof. 1939 (2nd Sess.), c. 10, s. 4.

Guards,
appointment
of.

5.—(1) For the purpose of protecting any public work, guards may be appointed by,

- (a) the Attorney-General;
- (b) the Commissioner of Police for Ontario;
- (c) any inspector of the Ontario Provincial Police;
- (d) the head or deputy head of the municipal council or the chief constable of the municipality in which such public work is located, or the person acting in the place or stead of the head or deputy head;
- (e) the chairman or other person who is the head of any board, commission or other body owning or having charge of a public work, or the person acting in the place or stead of the chairman or other person.

Powers of
guard.

(2) Every person appointed as a guard under this section shall for the purposes of this Act have the powers of a peace officer. 1939 (2nd Sess.), c. 10, s. 5.

Duties of
guard.

6. Subject to the regulations and to any special direction of the Attorney-General or the Commissioner of Police for Ontario, every guard shall obey all directions of the person

appointing him, any inspector of the Ontario Provincial Police, the chief constable of the municipality in which is located the public work which he is protecting, and the person who is in charge of the protecting of such public work. 1939, (2nd Sess.), c. 10, s. 6.

7. Every guard who,

- (a) neglects or refuses to obey any direction which he is required to obey under section 6;
- (b) fails in any manner to carry out his duties as guard;
- (c) leaves the location to which he is assigned as guard or ceases to act as guard without leave of any of the persons mentioned in section 6;
- (d) otherwise conducts himself in a manner not consistent with his duties as guard,

Breach of
duty of
guard.
penalty:

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 or to imprisonment for a term of not more than two months, or to both. 1939 (2nd Sess.), c. 10, ss. 7, 9.

8. The Lieutenant-Governor in Council may make regulations,

- (a) providing for the organization, co-ordination, supervision, discipline and control of guards;
 - (b) defining the areas which constitute approaches to public works, either generally or with regard to any particular public work;
 - (c) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1939 (2nd Sess.), c. 10, s. 8.
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CHAPTER 325

The Pulpwood Conservation Act**1. In this Act,****Interpre-
tation.**

- (a) "company" means a company, operating in Ontario in connection with the holding of pulpwood or pulp lands, or the manufacture of such wood into pulpwood, paper of any kind or other product of pulpwood, and includes a firm, partnership or individual carrying on such work in Ontario;
- (b) "Department" means Department of Lands and Forests;
- (c) "Minister" means Minister of Lands and Forests;
- (d) "pulpwood" means any form of timber of any kind or variety capable of being used in the manufacture or production of pulp or paper of any kind whatsoever. R.S.O. 1937, c. 41, s. 1.

2. Every company shall, as and when required by the Minister, file with the Department a statement in duplicate, executed under the seal of the company and signed by the executive officers thereof and by the forester of the company, if any, containing,

**Return to
be made;
particulars.**

- (a) the full name of the company, and the names of all subsidiary companies, or holding companies, carrying on business in connection with the company;
- (b) the date of incorporation of the company and a statement of the authority under which the company was incorporated;
- (c) the names of all companies, associates, syndicates or other organizations taken over by the company or from whom the company has purchased or acquired pulp lands or pulpwood in Ontario;
- (d) the authorized capital of the company;
- (e) the paid-up capital of the company;
- (f) particulars of all bond issues or debentures of the company;
- (g) particulars and a description of all leases, areas, concessions, grants, or lands held under contract,

containing pulpwood in Ontario, either freehold or leasehold, or held under any licence or contract from the Crown in the right of Ontario;

- (h) particulars of any other lands in Ontario containing pulpwood held in fee or under lease or contract from anybody other than the Crown in the right of Ontario;
- (i) particulars of the various plants of the company in Ontario showing the installed capacity of such plants;
- (j) a map showing all the areas or holdings of the company in Ontario and showing thereon the cut over areas and the areas containing standing timber and the nature, character and extent thereof;
- (k) an estimate of the quantity of pulpwood showing in detail the various kinds thereof owned by the company in Ontario, showing the location of such holdings and certified to by a forester; and
- (l) a plan or scheme in detail prepared by the company providing for the placing of its supply of pulpwood on a sustained yield basis so that the consumption of pulpwood shall not exceed the production of pulpwood in any year, and with the intention that the industry may be placed on a permanent basis with respect to raw material;
 - (i) the plan may provide for a period of five years in which the plan or scheme is to become effective and shall set out the details of the plan in full and the source and means of supply and the annual consumption to be provided for the company,
 - (ii) the plan shall show the rate of natural growth on which it is based and the provision it is proposed to make for further supplies so that the company's supply of raw material may be maintained on such sustained yield basis.

R.S.O. 1937, c. 41, s. 2; 1938, c. 37, s. 22 (1, 2).

Plans for
sustained
yield of
pulpwood
in Ontario.

3.—(1) On receipt of the statements, the Department shall study them individually and collectively and, if necessary, shall hold conferences with the officers and foresters of the companies and with the officers and foresters of other provinces from time to time, and shall devise some general plan to place the pulpwood supply of Ontario on a sustained yield basis so that the industry may have an assured source of supply.
R.S.O. 1937, c. 41, s. 4 (1), *amended*.

(2) If it is considered necessary Ontario may be divided into sections for the purpose of working out the general plan or a plan for any individual company. Division of Ontario.

(3) The plan or plans may be brought into force at one time or at different times as may be found necessary. Effective dates.

(4) The plan or plans may provide for periodic revision according to the conditions existing from time to time. Revision.

(5) Upon the completion of a general plan for Ontario or upon the completion of a plan for any area or any individual company, the plan may be authorized by an Order in Council and upon being so authorized shall have the same effect as if it were set out in detail in this Act. R.S.O. 1937, c. 41, s. 4. (2-5). Validation of plan.

4.—(1) Notwithstanding anything in any general or special Act or in any licence, lease, concession, grant, agreement or other document under which the right to cut pulpwood is claimed or exercised the Minister shall have authority to fix the size and kind of trees and timber which may be cut by such company, and such authority may be exercised in such part of Ontario and for such time and on such terms and conditions as the Minister may direct and any directions so given may in like manner be varied from time to time. Authority of Minister as to control of cutting.

(2) Where no plan has been authorized, or where in the opinion of the Minister an authorized plan is not being properly carried out, the Minister shall have the further right and authority to direct and control the location, sequence or extent of cuttings and to limit the cutting from year to year, by any company, for the purpose of conserving the source of supply and placing Ontario on a sustained yield basis. R.S.O. 1937, c. 41, s. 5. Idem.

5. Upon the recommendation of the Minister the Lieutenant-Governor in Council may authorize the establishment of a nursery or nurseries for the growing and production of spruce and other pulpwoods, and for the supplying of the same to companies for planting for the purpose of increasing the pulpwood supply of Ontario, and nursery pulpwood stock may be supplied to the companies on such terms and conditions as may be fixed by Order in Council from time to time. R.S.O. 1937, c. 41, s. 6. Nurseries.

6. For the purpose of carrying out any authorized working plan the Lieutenant-Governor in Council may set aside for any company any townships, berths, or locations suitable and proper for the planting of nursery pulpwood stock and may require the company to plant a certain quantity of stock each and every year and may provide for the proper planting Planting nursery pulpwood stock.

and care thereof by the company, and may make such further provisions as may be necessary so that the company may be entitled to the growth thereof as additions to their supply of raw material, upon such terms and conditions as may be set out in the Order in Council. R.S.O. 1937, c. 41, s. 7.

Provision
for cost of
work.

7. The Lieutenant-Governor in Council may by Order in Council provide for a source of revenue for the purpose of carrying out the provisions of this Act and placing the supply of pulpwood on a sustained yield basis and an addition may be made to the dues payable by all companies in Ontario of a sum not exceeding twenty-five cents per cord on such quantities as are cut and returned by the company under the terms of its contract with the Crown, for the general expenses of the Department in the conservation of pulpwood and the carrying out of this Act. R.S.O. 1937, c. 41, s. 8.

Annual
return of
company.

8. Every company shall on or before the 1st day of August in each year file with the Department a statement in the form prescribed by the Department showing the operations of the company for the previous year expiring on the 31st day of March and containing such information, particulars and details as may be prescribed and required by the Department from time to time. R.S.O. 1937, c. 41, s. 9; 1938, c. 37, s. 22 (4).

Regulations.

9. Upon the recommendation of the Minister the Lieutenant-Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 41, s. 10.

Penalty.

10. Every company guilty of any breach of this Act, or of the regulations made thereunder, or of any direction or order of the Minister shall be liable to a penalty of not less than \$100 for each and every day of such neglect, default or breach, to be recoverable by the Minister by action, suing in his name of office in any court of competent jurisdiction, and, in addition, any breach of this Act shall be regarded as a breach of the original contract or lease under which the company is carrying on operations, and the company shall, in addition, be liable for all the penalties contained and set out in the contract or agreement. R.S.O. 1937, c. 41, s. 11.

CHAPTER 326

The Quieting Titles Act

1. An owner of an estate in fee simple in land or a trustee for the sale of the fee simple shall be entitled to have his title judicially investigated and the validity thereof ascertained and declared, whether he has the legal estate or not, and whether his title is or is not subject to any charge of encumbrance. R.S.O. 1937, c. 169, s. 1.

Owners, etc., in fee simple may obtain judicial investigation of title.

2. Any other person who has any estate or interest in land may apply for the investigation of his title and a declaration of the validity thereof; but it shall be in the discretion of the judge before whom the proceedings are taken to grant or refuse the application and such discretion may be invoked and exercised at any stage of the proceedings, and the decision of the judge in exercising such discretion shall be subject to appeal. R.S.O. 1937, c. 169, s. 2.

In case of any other estate; investigation to be discretionary with the judge.

3. The Attorney-General for Canada or the Attorney-General for Ontario may apply for an investigation of the title of the Crown to any land and a declaration of the validity thereof, and the application may be made by information instead of petition, but in other respects the practice and procedure shall be the same as in ordinary cases. R.S.O. 1937, c. 169, s. 3.

Attorney-General may apply to quiet title to Crown lands.

4. Every application shall be made to the Supreme Court or a judge thereof and, subject to section 3, shall be by petition (Form 1). R.S.O. 1937, c. 169, s. 4.

Form of application and to whom made.

5. The application shall be supported by,

How the application must be supported,

- (a) the title deeds, if any, and evidences of title in the possession or power of the applicant;
- (b) certified copies of all registered instruments, or registered memorials of instruments, affecting the land, or of all since the last judicial certificate, if any, under this Act, up to the time of the granting of the certificate of title save and except mortgages of which discharges have been registered more than ten years prior to the date of the application and the discharges of such mortgages;

title deeds;

registered instruments;

registrar's
certificate,

(c) an abstract of the title certified by the registrar of the registry division in which the land lies, unless the abstract is dispensed with in whole or in part;

statement
of facts,

(d) a concise statement of such facts as are necessary to make out the title which do not appear in the produced documents; but no abstract of produced documents shall be required except on special grounds;

proof of
facts

(e) proof of any fact which is required to be proved in order to make out the title, and which is not established by the produced documents, unless the judge dispenses with such proof until a future stage of the investigation;

affidavit and
certificate of
counsel, etc.,

(f) an affidavit or deposition by the person whose title is to be investigated and a certificate of his counsel or solicitor, to the effect hereinafter mentioned, unless the judge, for special reason, dispenses therewith;

schedule of
particulars
produced.

(g) a schedule of the particulars produced under this section. R.S.O. 1937, c. 169, s. 5.

What the
affidavit or
deposition of
the appli-
cant must
state.

6.—(1) The affidavit or deposition of the person whose title is to be investigated shall state that to the best of his knowledge and belief he is the owner of the estate or interest claimed by the petitioner, subject only to the charges and encumbrances set forth in the petition or in a schedule thereto, or that there is no charge or encumbrance affecting the land; that the deeds and evidences of title which he produces, and of which a list is contained in the schedule produced under section 5, are all the title deeds and evidences of title relating to the land in his possession or power, and that he is not aware of the existence of any claim adverse to or inconsistent with his own to any part of the land or to any interest therein; or, if he is aware of such adverse claim, he shall set forth every such adverse claim, and shall depose that he is not aware of any except what he sets forth.

As to peti-
tioner's pos-
session
and other
material
facts.

(2) The affidavit or deposition shall also set forth whether any one is in possession of the land and under what claim, right or title, and shall state that to the best of the deponent's knowledge, information and belief, the affidavit or deposition and the other papers produced therewith fully and fairly disclose all facts material to the title claimed by the petitioner, and all contracts and dealings which affect the title or any part thereof or give any right as against him.

In certain
cases it may
be dispensed
with or made
by another
person

(3) The affidavit or deposition may be dispensed with or may be made by some other person instead of the person whose title is to be investigated, or an affidavit or deposition

as to part may be made by one person, and as to part by another, in the descretion of the judge to whom the application is made, and in such case the affidavit shall be modified accordingly. R.S.O. 1937, c. 169, s. 6.

7. The certificate of the counsel or solicitor shall state that he has investigated the title and believes the petitioner to be the owner of the estate which he claims in the land, subject only to any charge of encumbrance set forth in the petition or in the schedule thereto, or that he so believes, subject to any condition, qualification or exemption set forth in the certificate, and that he has conferred with the deponent on the subject of the various matters set forth in the affidavit or deposition referred to in sections 5 and 6 and believes the affidavit or deposition to be true. R.S.O. 1937, c. 169, s. 7.

What the certificate of counsel or solicitor must state.

8.—(1) The judge in investigating the title may receive and act upon any evidence that is received by the Supreme Court on a question of title, and any evidence which the practice of conveyancers authorizes to be received on an investigation of a title out of court, or any other evidence, whether the evidence is or is not receivable or sufficient in point of strict law or according to the practice of conveyancers, if the evidence satisfies the judge of the truth of the facts intended to be established thereby.

On what evidence judge may proceed.

(2) It shall not be necessary to produce any evidence which by *The Vendors and Purchasers Act* is dispensed with as between vendor and purchaser, or to produce or account for the originals of any registered deeds, documents or instruments, unless the judge otherwise directs.

Idem. Rev. Stat., c. 407.

(3) The proof may be by affidavit or certificate or may be given orally or in any other manner or form satisfactory to the judge. R.S.O. 1937, c. 169, s. 8.

Form of proofs.

9. Before a certificate of title is granted satisfactory evidence shall be given by certificate, affidavit or otherwise that all taxes, rates and assessments for which the land is liable have been paid, or that all, except those for the current year, have been paid, and by the production of a certificate from the Treasurer of Ontario that all claims for succession duty in respect of the land to be included in the certificate have been satisfied. R.S.O. 1937, c. 169, s. 9.

Taxes must have been paid except for current year.

10. If the judge is not satisfied with the evidence of title produced in the first instance he shall give a reasonable opportunity to produce further evidence or to remove defects in the evidence produced. R.S.O. 1937, c. 169, s. 10.

Further proof if judge not satisfied.

Judge
to order
notice to be
published.

11.—(1) Except as hereinafter provided, before a certificate of title is granted or a conveyance is made under this Act, the judge shall direct to be published in *The Ontario Gazette*, and if he sees fit in one or more newspapers, and in such form and for such period as he deems expedient, a notice either of the application having been made, or of the order or decision of the judge thereon, and the notice shall state the time within which adverse claims may be filed, and the certificate or conveyance shall not be signed or executed until after the expiration of at least four weeks from the first publication of the notice or such other period as the judge may appoint.

Notice of
application
where land
is valued
at not more
than \$3,000.

(2) Where the value of the land is proved to the satisfaction of the judge to be not more than \$3,000, he may dispense with the publication of the notice and in lieu thereof may direct that for such period as he may think fit a printed or type-written notice of the application, or of the order or decision of the judge thereon, be posted up in one or more conspicuous places on the land, and in such other place, if any, as he may think fit, and the certificate or conveyance shall not be signed or executed until the period limited by the notice for filing adverse claims has expired. R.S.O. 1937, c. 169, s. 11.

Judge may
grant certi-
cate without
further
notice.

12. Where the judge is satisfied respecting the title, and considers that the certificate of title can safely be granted or the conveyance can safely be executed without any other notice of application than the published or posted notice, he may grant the certificate or direct the execution of the conveyance. R.S.O. 1937, c. 169, s. 12.

Notice to
adverse
claimant.

13. Where it appears that there is any person who may have a claim adverse to or inconsistent with that of the petitioner to or in respect of any part of the land, the judge shall direct such notice as he deems necessary to be mailed to or served on that person, his agent or solicitor. R.S.O. 1937, c. 169, s. 13.

Appoint-
ment of
guardian
ad litem.

14.—(1) Where it appears that any persons who will become the heirs of a living person or that any person not *in esse* may be interested in opposing the claim of the petitioners, the judge may appoint a guardian *ad litem* to represent them and they shall be bound by the adjudication.

Costs.

(2) The judge may order that the costs of the guardian *ad litem* be paid by the petitioner.

Who may be
guardian.

(3) Unless the judge otherwise directs, the Official Guardian shall be appointed guardian *ad litem*. R.S.O. 1937, c. 169, s. 14.

15. Before granting the certificate or directing the execution of the conveyance the judge may require any further publication or service of notice to take place or any other notice to be mailed or served which he deems necessary. R.S.O. 1937, c. 169, s. 15.

16.—(1) Any person having an adverse claim or a claim not recognized in the petition may at any time before the certificate is granted or the conveyance is executed, file and serve on the petitioner, his solicitor or agent, a statement of his claim (Form 2).

(2) The claim shall be verified by an affidavit to be filed therewith. R.S.O. 1937, c. 169, s. 16.

17. In case of a contest, the judge may either decide the question of title on the evidence before him, or may refer the question or any matter involved therein to the Court of Appeal, or may direct any mode of investigation which he deems expedient, and may defer granting the certificate or directing the execution of the conveyance. R.S.O. 1937, c. 169, s. 17.

18. The judge may at any stage of the proceeding order security for costs to be given by the petitioner or by any person making an adverse claim. R.S.O. 1937, c. 169, s. 18.

19. The judge may order costs either as between party and party, or as between solicitor and client, to be paid by or to any party to any proceeding, and may give directions as to the fund out of which any costs shall be paid. R.S.O. 1937, c. 169, s. 19.

20. The petitioner may by leave of the judge withdraw his application at any time before final adjudication, on payment of all costs incurred in the investigation, either by himself or by any adverse claimant. R.S.O. 1937, c. 169, s. 20.

21. Subject to rules of court, the judge may refer a petition or any question arising in the course of any proceeding thereon to any referee of titles or other officer of the court, or to counsel named by the judge, who shall proceed as the judge himself should do had the reference not been made, and shall have all the powers of the judge, except the power to grant the certificate or to direct the execution of the conveyance. R.S.O. 1937, c. 169, s. 21.

22.—(1) Every claim of title under this Act shall be presumed to be subject to the following exceptions and qualifications unless the petition expressly states the contrary,

(a) the reservations, if any, contained in the original grant from the Crown;

- (b) any municipal charges, rates or assessments theretofore imposed for local improvements and not yet due and payable;
- (c) any title or lien which, by possession or improvements or other means, the owner or person interested in any adjoining land has acquired to or in respect of the land;
- (d) any lease or agreement for a lease for a period yet to run, not exceeding three years, where there is actual occupation under the same;
- (e) any public highway, right of way, watercourse and right of water, and other easement;
- (f) any right of the wife or husband of the petitioner to dower or curtesy;
- (g) any claim for succession duty.

But claim
may be
without
exceptions.

(2) If the petitioner desires the certificate to declare the title to be free from such exceptions or qualifications, or any of them, the petition shall so state, and the investigation shall proceed accordingly, but this subsection shall not apply to the exception or qualification as to a public highway. R.S.O. 1937, c. 169, s. 22.

One certi-
ficate or
several.

23. The judge may give one certificate of title comprising all the land mentioned in the petition, or may give separate certificates as to separate parts of the land. R.S.O. 1937, c. 169, s. 23.

Form of
certificate.

24. The certificate of title (Form 3), shall be under the seal of the court and shall be signed by a judge and, where the proceedings on the petition are conducted in Toronto, by the Referee of Titles and in other cases by the Inspector of Titles and shall also be signed by the Registrar or an assistant registrar of the Supreme Court, and the certificate and the schedule, if any, thereto or a duplicate or counterpart of the same shall be registered in full both in the Supreme Court and in the registry office of the registry division where the land lies without any further proof thereof. R.S.O. 1937, c. 169, s. 24.

Registration
of certificate.

25. A certificate of the registration in the Supreme Court may be endorsed on the certificate of title, or on any counterpart or certified copy thereof, thus:

Registered in 19 Book
Page
A.H.,
Registrar of the Supreme Court (or as the case may be)

and a memorandum or certificate so signed shall be evidence of the registration mentioned therein. R.S.O. 1937, c. 169, s. 25.

26. The certificate of title, sealed, signed and registered as required by section 24, shall be conclusive, and the title therein mentioned shall be deemed absolute and indefeasible on and from the date of the certificate as regards the Crown and all persons whomsoever, subject only to any charges or encumbrances, exceptions or qualifications mentioned therein or in the schedule thereto, and shall be conclusive evidence that every application, notice, publication, proceeding, consent and act which ought to have been made, given and done before the granting of the certificate, has been made, given and done by the proper person. R.S.O. 1937, c. 169, s. 26.

27. After a certificate of title is registered a copy thereof purporting to be signed and certified as a copy by the Registrar or an assistant registrar of the Supreme Court, or by the registrar of the registry division in which the land lies, shall be admissible evidence of the certificate for all purposes without further evidence of such copy, and without accounting for the non-production of the certificate. R.S.O. 1937, c. 169, s. 27.

28. In case of a sale by the Supreme Court the court may investigate the title with a view to granting an indefeasible title, and in that case a conveyance (Form 4), executed to the purchaser, under the seal of the court and purporting to be under the authority of this Act, shall have the same effect as a certificate. R.S.O. 1937, c. 169, s. 28.

29. Where judgment is given for the specific performance of a contract for the sale of land and it is provided by the contract that the vendor shall give an indefeasible title, the court may make the like investigation, and the conveyance may be according to Form 4. R.S.O. 1937, c. 169, s. 29.

30. Where a person domiciled or claiming land in Ontario desires to establish that he is the legitimate child of his parents, or that the marriage of his father or mother or of his grandfather and grandmother was a valid marriage, or that his own marriage was a valid marriage, or that he is the heir or one of the heirs of any person deceased, or that he is a natural born subject of His Majesty, he may, if the court thinks fit, have any of such matters judicially investigated and declared. R.S.O. 1937, c. 169, s. 30.

31.—(1) The application shall be by petition supported by an affidavit of the petitioner verifying the statements of the petition, and stating that his claim is not disputed or

questioned by any person; or, if his claim is to his knowledge disputed or questioned, the facts in relation to such dispute or question, and that he is not aware of any dispute or question except what he has set forth, and stating such other facts as may satisfy the court of the propriety of proceeding with the investigation.

Investigation, proof, etc., in such case.

(2) The proceedings upon the petition shall be the same as nearly as may be as in cases under section 1, and the certificate granted on the investigation shall be registered in the same way, and may be proved by the like evidence, as in the case of a certificate under section 12.

Effect of certificate.

(3) The certificate when registered shall be conclusive and indefeasible in favour of the person to whom it was granted and all persons claiming by, from, through or under him as regards the Crown and all persons whomsoever and shall be *prima facie* evidence in favour of all other persons as against the Crown and all persons whomsoever of the truth of the fact therein declared. R.S.O. 1937, c. 169, s. 31.

Certificate obtained by fraud.

32. If in the course of any proceeding any person acting either as principal or agent knowingly and with intent to deceive makes or assists or joins in or is privy to the making of any material false statement or representation, or suppresses, withholds or conceals, or assists or joins in or is privy to the suppression, withholding or concealing from the court of any material document, fact or matter of information, any certificate or conveyance obtained by means of such fraud or falsehood, shall be null and void except as against a purchaser for valuable consideration without notice. R.S.O. 1937, c. 169, s. 32.

Re-investigation, petition for.

33.—(1) After a certificate is granted or a conveyance is executed any person aggrieved thereby may, on petition, and after satisfactorily accounting for his delay, by leave of the court or a judge, have the title or claim re-investigated on such terms as may be deemed just.

Registration.

(2) A certificate of the presentation of the petition shall be registered in the proper registry office.

Those who have purchased, etc., in the meantime not to be affected.

(3) No proceeding on such petition shall affect the title of any person who, after the date of the certificate or conveyance under this Act and before the registration of the certificate of the presentation of the petition, has acquired by sale, mortgage or contract, for valuable consideration, any estate or interest in the land described in the certificate or conveyance, or, if the certificate was granted under section 30, in any land or other property the title to which was derived from, through or under the person named in the certificate, in the character which is thereby declared to belong to him.

(4) The court or judge may make such order on the petition as he may deem just having regard to the provisions of sub-section 3 and of section 32. R.S.O. 1937, c. 169, s. 33. What order may be made.

34. An appeal shall lie from an order or decision of a judge under this Act to the Court of Appeal in the same manner and subject to the same restrictions as in the case of an appeal from a judgement or order of a judge of the High Court in an action. R.S.O. 1937, c. 169, s. 34. Appeals.

35. A separate book shall be kept in the Supreme Court for the registration of certificates and conveyances under this Act, and the certificates and conveyances registered therein shall be numbered in order, and an index to the book shall be kept in such form as the court may direct. R.S.O. 1937, c. 169, s. 35. Register to be kept.

36. Where any person who, if not under disability, might have made any application, given any consent, or done any act, or been party to any proceedings under this Act, is an infant, a mentally defective person, or a mentally incompetent person, the guardian of the infant, or committee of the estate of the mentally defective person or mentally incompetent person, may make such application, give such consent, do such act, and be party to such proceeding as such person might if free from disability, and shall otherwise represent such person for the purposes of this Act, and if the infant has no guardian, or the mentally defective person or mentally incompetent person no committee of his estate, the court or judge may appoint a person with like power to act for the infant, mentally defective person or mentally incompetent person. R.S.O. 1937, c. 169, s. 36. Where any party is a minor, mental defective, etc.

37. A married woman shall, for the purposes of this Act, be deemed a *feme sole*. R.S.O. 1937, c. 169, s. 37. Married women.

38. No objection to a petition shall be allowed upon the ground that the petitioner should first have brought an action, and if it appears upon the determination of the investigation that the petitioner is entitled to the possession of the land he may obtain an order against any other party to the proceeding for the delivery of possession thereof. R.S.O. 1937, c. 169, s. 38. Objections to petition.

39. Proceedings shall not abate or be suspended by any death or transmission or change of interest, but in any such event the court or a judge may require notices to be given to persons becoming interested, or may make any order for discontinuing, or suspending, or carrying on the proceedings, or otherwise, in relation thereto as may seem just. R.S.O. 1937, c. 169, s. 39. Proceedings not abated by certain events.

Proceedings
not void for
want of
form.

40. No petition, order, affidavit, certificate, registration or other proceeding shall be invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceeding. R.S.O. 1937, c. 169, s. 40.

Inspector
of Titles;

41.—(1) There shall be an Inspector of Titles who shall supervise the work of the local referees of titles.

to be officer
of Supreme
Court.

(2) Such officer of the Supreme Court as may be designated for that purpose by the rules of court shall be the Inspector of Titles. R.S.O. 1937, c. 169, s. 41.

Referees of
Titles.

42. Every local master shall be local referee of titles and the Inspector of Titles shall be the Referee of Titles where the proceedings under the petition are to be conducted at Toronto. R.S.O. 1937, c. 169, s. 42.

Powers of
Inspector
and referees.

43. The Inspector of Titles, the Referee of Titles and every local referee of titles in respect of the petition and the proceedings thereunder shall have the like powers as the Master of the Supreme Court. R.S.O. 1937, c. 169, s. 43; 1947, c. 101, s. 16.

Powers of
Referee of
Titles.

44. The Referee of Titles and every local referee of titles shall have the same powers as a judge of the Supreme Court within the limits prescribed by the rules. R.S.O. 1937, c. 169, s. 44.

Application
of Rev.
Stat., c. 190.

45. Subject to the rules of court and except where otherwise provided, the practice and procedure under *The Judicature Act* and the rules made thereunder shall apply to proceedings under this Act. R.S.O. 1937, c. 169, s. 45.

Rules Com-
mittee may
make
general
rules.

46.—(1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules for referring petitions under this Act to any referee of titles or other officer of the court, or to any counsel or other person and may regulate the fees to be paid on such references.

Rules for
practice
and
procedure.

(2) Subject to the approval of the Lieutenant-Governor in Council, the Rules Committee may also make rules for the purposes of and for regulating the practice or procedure under this Act notwithstanding that the practice or procedure prescribed by this Act may be thereby varied. R.S.O. 1937, c. 169, s. 46; 1941, c. 55, s. 29.

FORM 1

(Section 4)

PETITION TO QUIET A TITLE

In the Supreme Court of Ontario

In the matter of *(the east half of lot No. in the*
Concession of the Township of.....or as the case may be,
briefly describing the property).

To the Honourable the Judges of the Supreme Court of Ontario.

The Petition of.....of.....

SHEWETH:

That your Petitioner is absolute owner in fee simple in possession *(or as the case may be)* of the following land *(describing it)*.

That there is no charge or other encumbrance affecting your Petitioner's title to the land, (except, etc., *or* that your Petitioner's title is subject only to the charges or encumbrances in the schedule hereto mentioned, and that the only persons having or claiming any charge, encumbrance, estate, right or interest in the land are set forth in the schedule hereto annexed, and that the charge, encumbrance, estate, right or interest belonging to or claimed by each is therein set forth). Your Petitioner therefore prays that his title to the land may be investigated and declared under *The Quieting Titles Act*.

A.B.,

or

C.D., Solicitor for A.B.

R.S.O. 1937, c. 169, Form 1.

FORM 2

(Section 16 (1))

ADVERSE CLAIM

In the Supreme Court of Ontario

In the matter of, etc., *(as in petition)*.

G.H., of, etc., claims to be the owner of the land *[or as the case may be (stating briefly the nature and the grounds of the claim)]*.

Dated this.....day of, 19.....

G.H.,

or

E.F., Solicitor for G.H.

R.S.O. 1937, c. 169, Form 2.

FORM 3

(Section 24)

CERTIFICATE OF TITLE

In the Supreme Court of Ontario

These are to certify under the authority of *The Quieting Titles Act*, that *A.B.*, of....., is the legal and beneficial owner in fee simple in possession (*or as the case may be*) of all, etc. (*here describe the land*) subject to the exceptions and qualifications mentioned in section 22 of the said Act (*or as the case may be*), and to (*specifying either by reference to a schedule or otherwise any of the charges or encumbrances, exceptions or qualifications to which the title of A.B. is subject*), but free from all other rights, interests, claims and demands whatever.

[*Or that (stating the facts found and declared under section 30, and stating on whose application the same are declared)*].

In witness whereof.....
one of the Justices of the Court has
 hereunto set his hand, and the seal of the Court has been hereunto affixed,
 this.....day of....., 19.....

G.S.H.,*J.A.B.*[*L.S.*]Inspector (*or Referee*) of Titles.

R.S.O. 1937, c. 169, Form 3.

FORM 4

(Section 28)

CONVEYANCE BY THE SUPREME COURT

The Supreme Court of Ontario, under the authority of *The Quieting Titles Act*, doth hereby grant unto *A.B.*, of.....
 [*here describe the land sold*] to hold the same unto the said.....
in fee simple (*or as the case may be*),
 subject to [*here specify as in the case of a certificate of title*].

In witness whereof.....
one of the Justices of the Court has
 hereunto set his hand, and the seal of the Supreme Court has been hereunto
 affixed, this.....day of....., 19.....

G.S.H.,*J.A.B.*[*L.S.*]

Registrar.

R.S.O. 1937, c. 169, Form 4.

CHAPTER 327

The Race Tracks Tax Act

1. In this Act,

Interpreta-
tion.

- (a) "person" includes incorporated company, association and club;
- (b) "race meeting" means a series of races for horses;
- (c) "regulations" means regulations made under this Act;
- (d) "Treasurer" means Treasurer of Ontario. 1939, c. 39, s. 1.

2. Every person owning or operating a race track and holding a race meeting shall pay in advance before each race meeting for each day of the race meeting a tax of \$1. 1939, c. 39, s. 2.

Tax on race
meetings.

3.—(1) Every holder of a winning ticket issued under the pari-mutuel system upon a race run at any race meeting shall pay a tax at the rate of five per cent or such other rate as the Lieutenant-Governor in Council may prescribe upon the amount which would be payable to him if no percentage were deducted or retained by the person holding the race meeting in respect of such race.

Tax on bets.

(2) The tax shall be collected by the person holding the race meeting as the agent of the Treasurer by deducting from the total amount bet or wagered upon such race, a sum equal to five per cent or such other rate as may be prescribed of the amount so bet or wagered, and such sum shall be paid over to the Treasurer at the close of each day's racing. 1939, c. 39, s. 3; 1948, c. 76, s. 1.

Collection.

4.—(1) Every person owning, operating or using a race track and holding a race meeting shall, within two weeks after the close of each race meeting, furnish to the Treasurer a detailed statement, verified by the affidavit of such person or of some other person satisfactory to the Treasurer,

Returns at
close of
meeting.

- (a) of the moneys received and of the moneys paid out at or in connection with the race meeting;

- (b) of the total amount wagered on the track or tracks at the race meeting in respect of which such person derived any benefit; and
- (c) of the percentage or other portion thereof taken by such person.

Office and books.

(2) Every person owning, operating or using a race track and holding a race meeting shall maintain an office at or near the race track and within Ontario at which at all times shall be kept the books of account and vouchers relating to the race track and any race meetings held by him, and, in the case of a company, association or club, the minute book shall also be kept at such office and the books of account, vouchers and minute book shall at all times be open to the inspection of the Treasurer or his duly accredited representative.

Access.

(3) Such officers or clerks of the Treasury Department as may be appointed by the Treasurer for the purpose of ascertaining the amount wagered in connection with the tax imposed by section 3 shall have access free of all charge at all times to all parts of any race track including the pari-mutuel plant connected therewith during the progress of a race meeting.

Penalties:

(4) Every person opening or continuing a race meeting on any day in respect of which the tax imposed under this Act has not been paid or neglecting or refusing to deduct and pay over the tax mentioned in section 3, or neglecting to furnish the statement required by subsection 1, or to comply with subsection 2, shall be liable to a penalty of \$1,000 for every day during which the default continues and where such person is a company, association or club, every director, manager or secretary thereof who wilfully authorizes or permits such default shall be liable to a like penalty.

Default:

(5) Where default has been made by such person in the payment of the tax imposed by section 2, or in deducting and paying over the tax mentioned in section 3, or in making any return required by this section or under any other provision of this Act, or in complying with subsection 2, or such person is violating any statute of Canada or of Ontario, any member of the Ontario Provincial Police Force, acting under the instructions of the Treasurer, may stop all racing upon the track of such person, or the holding of any further race meeting by such person. 1939, c. 39, s. 4.

Payment of tax.

5. Where under any agreement or arrangement whenever entered into, a person conducting a race meeting upon a race course has leased, assigned or otherwise disposed of, or suffers or permits the enjoyment of the betting privileges.

or the operation of pari-mutuel machines upon or in connection with such race course to or by any other person, such other person shall deduct and pay over to the Treasurer the tax imposed under this Act and this Act shall apply to such other person as well as to the person conducting such race meeting, and in the event of the neglect, refusal or failure of such other person to deduct and pay over the tax and to comply with this Act the person conducting the race meeting in respect of which such default occurs as well as such other person shall be liable to the penalties provided by this Act, and any member of the Ontario Provincial Police Force acting under the instructions of the Treasurer, may stop all racing upon the track upon which the race meeting is conducted or the holding of any further race meeting by such person. 1939, c. 39, s. 5.

6. For the purpose of obtaining any information which he may deem necessary for the purposes of this Act, the Treasurer ^{Obtaining information.} may,

- (a) demand from any person such information as may be indicated in a letter delivered or sent by prepaid post to such person and every such person shall furnish to the Treasurer all such information which he has in his possession or under his control, in writing, within one month of the delivery or sending of such letter; or
- (b) appoint any officer of the Treasury Department to make such inquiry as may be necessary to obtain such information and for the purpose of such inquiry such officer shall have all the power and authority that may be conferred upon a commissioner under *The Public Inquiries Act*;

Rev. Stat.,
c. 308.

provided that any act done or proceeding taken under either of the clauses of this section shall not preclude the Treasurer from proceeding under the other clause. 1939, c. 39, s. 6.

7.—(1) The taxes and penalties imposed under this Act may be recovered by an action in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of the Treasurer or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury. ^{Recovery of tax and penalties.}

(2) Except where otherwise provided, the penalties imposed by this Act may be recovered in the manner provided by *The Summary Convictions Act* and shall be payable to the Treasurer. 1939, c. 39, s. 7. ^{Penalties.} ^{Rev. Stat., c. 379.}

Regulations.

8. The Lieutenant-Governor in Council may make regulations,

- (a) authorizing or requiring the Deputy Treasurer or any other officer of the Treasury Department to exercise any power or impose any duty conferred or imposed upon the Treasurer by this Act;
- (b) prescribing the forms of returns required to be made by this Act and the information to be furnished therein;
- (c) providing for the manner of collecting the tax imposed by this Act;
- (d) authorizing the payment of remuneration to persons charged with the collection of the tax and prescribing the amount thereof;
- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1939, c. 39, s. 8; 1947, c. 92, s. 1.

Affidavits
and declara-
tions.

9. Declarations and affidavits in connection with this Act may be taken before any person having authority to administer an oath, or before any person specifically authorized for that purpose by the Lieutenant-Governor in Council, but any person so specifically authorized shall not charge any fee therefor. 1939, c. 39, s. 9.

Information
obtained
under Act.

10.—(1) No person employed in the service of His Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

Penalty.

(2) Every person who violates any provision of this section shall be guilty of an offence and liable to a penalty of not more than \$200. 1939, c. 39, s. 10.

CHAPTER 328

The Racial Discrimination Act

1. No person shall,

- (a) publish or display or cause to be published or displayed; or
- (b) permit to be published or displayed on lands or premises or in a newspaper, through a radio broadcasting station or by means of any other medium which he owns or controls,

Publishing or displaying discriminatory signs, etc., prohibited.

any notice, sign, symbol, emblem or other representation indicating discrimination or an intention to discriminate against any person or any class of persons for any purpose because of the race or creed of such person or class of persons. 1944, c. 51, s. 1.

2. This Act shall not be deemed to interfere with the free expression of opinions upon any subject by speech or in writing and shall not confer any protection to or benefit upon enemy aliens. 1944, c. 51, s. 2.

Effect of Act.

3. Every person who violates any of the provisions of section 1 shall be liable to a penalty of not more than \$100 for a first offence and not more than \$200 for a second or subsequent offence and such penalties shall be paid to the Treasurer of Ontario. 1944, c. 51, s. 3.

Penalty.

4.—(1) The penalties imposed by this Act may be recovered upon the application of any person, with the consent of the Attorney-General, to a judge of the Supreme Court by originating notice and upon every such application the rules of practice of the Supreme Court shall apply.

Recovery of penalties.

(2) The judge, upon finding that any person has violated any of the provisions of section 1 may, in addition to ordering payment of the penalties, make an order enjoining him from continuing such violation.

Order of judge.

(3) Any order made under this section may be enforced in the same manner as any other order or judgment of the Supreme Court. 1944, c. 51, s. 4.

Enforcement of order.

CHAPTER 329

The Racing Commission Act

Interpre-
tation.

1. In this Act,

(a) "Commission" means Ontario Racing Commission;

(b) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant-Governor in Council. 1950, c. 67, s. 1.

Commission
established.

2. There shall be a body corporate to be known as the Ontario Racing Commission composed of not less than three and not more than seven members appointed by the Lieutenant-Governor in Council. 1950, c. 67, s. 2.

3. The object of the Commission shall be to govern, direct, control and regulate horse racing in Ontario in any or all of its forms. 1950, c. 67, s. 3.

4. The members of the Commission shall hold office during the pleasure of the Lieutenant-Governor in Council. 1950, c. 67, s. 4.

Term of
office.

5.—(1) The Lieutenant-Governor in Council shall name one of the members to be the chairman and one of the members to be the vice-chairman.

Chairman
and vice-
chairman.

(2) When the office of chairman is vacant or in the absence of the chairman, the vice-chairman shall act in his place and stead. 1950, c. 67, s. 5.

Absence of
chairman.

6.—(1) At any meeting of the Commission a majority of the members shall constitute a quorum, and a majority vote of the members present at any meeting of the Commission shall determine any question.

Quorum.

(2) The chairman shall have a casting vote in addition to his ordinary vote. 1950, c. 67, s. 6.

Casting
vote.

7. The Lieutenant-Governor in Council may fill any vacancy that may occur in the membership of the Commission. 1950, c. 67, s. 7.

Vacancies.

Salaries
of members
and staff.

8. The Lieutenant-Governor in Council shall fix the salaries of the chairman, the vice-chairman and the other members of the Commission, and may appoint such officers, clerks or other employees as may be necessary for the purposes of the Commission, and shall fix their salaries, wages or other remuneration. 1950, c. 67, s. 8.

Chairman
and staff
to be civil
servants.
Rev. Stat.,
c. 317.

9.—(1) The chairman of the Commission and all officers, clerks and other employees thereof shall be subject to *The Public Service Act* and shall be civil servants within the meaning of that Act.

Members
may be
made civil
servants.

(2) The Lieutenant-Governor in Council may provide that the members of the Commission other than the chairman, or any of them, shall be subject to *The Public Service Act* and shall be civil servants within the meaning of that Act. 1950, c. 67, s. 9.

Expenses
payable out
of vote.

10. The salaries and expenses of the members of the Commission and of the officers, clerks and other employees thereof, and generally all costs, charges and expenses incurred and payable in respect of the carrying out of this Act, shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1950, c. 67, s. 10.

Powers of
Commission.

11. The Commission shall have power,

- (a) to govern, direct, control and regulate horse racing in Ontario in any or all of its forms;
- (b) to govern, control and regulate the operation of race tracks in Ontario at which any form of horse racing is carried on;
- (c) to hold hearings relating to the carrying out of its objects or powers, and to summon any person by subpoena signed by the chairman or by any other member of the Commission, and to require such person to give evidence on oath and to produce such documents and things as the Commission deems requisite in any such hearing;
- (d) to enforce the carrying out and observance of all regulations, rules and conditions established under this Act, by a fine or other penalty or otherwise;
- (e) to make by-laws for the conduct of its business and for the control and direction of its work;

- (f) to do such other things relating to horse racing in any or all of its forms or to the operation of race tracks at which horse racing is carried on, as may be authorized or directed by the Lieutenant-Governor in Council. 1950, c. 67, s. 11.

12. The accounts of the Commission shall be audited by ^{Audit.} the provincial Auditor or by such other auditor as the Lieutenant-Governor in Council may appoint. 1950, c. 67, s. 12.

13. The Commission shall make a report annually to the ^{Annual} Minister, containing such information as the Minister may ^{report.} require. 1950, c. 67, s. 13.

14. The Lieutenant-Governor in Council may make ^{Regulations.} regulations with respect to any and all matters or things as may be deemed necessary for the carrying out of this Act, and without limiting the generality of the foregoing, such regulations may,

- (a) prescribe the powers and duties of the chairman and of the other members of the Commission and confer upon the Commission such powers as may be deemed proper for carrying out its objects;
- (b) provide for the licensing of persons to operate race tracks at which horse racing in any of its forms is carried on;
- (c) provide for the licensing of owners, trainers, drivers, jockeys, apprentice jockeys, grooms, jockeys' agents, jockeys' valets, exercise boys, tradesmen, and such other persons as may be deemed appropriate;
- (d) fix the fees or other charges to be paid for licences and prescribe the form and conditions under which licences shall be issued;
- (e) provide for the revocation, cancellation or suspension of licences;
- (f) establish rules for the conduct of horse racing in any of its forms;
- (g) to provide for the registration of colours, assumed names, partnerships and contracts and of such other matters or things as may be deemed necessary;
- (h) provide for the employment of stewards, veterinarians and analysts to attend at race meetings on behalf of the Commission;

- (i) provide for the approval by the Commission of the appointments of race track officials or employees, whose duties relate to the actual running of horse races, and for compelling the discharge for cause of any such officials or employees;
 - (j) provide for the fixing of fines or other penalties for violation or failure to comply with the regulations, rules or conditions made under this Act;
 - (k) require persons licensed to operate race tracks under this Act to keep proper books of account, and to provide access thereto and to allow inspection and investigation thereof by the Commission. 1950 c. 67, s. 14.
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CHAPTER 330

The Railway Fire Charge Act

1. In this Act,

Interpre-
tation.

- (a) "collector" means any officer in the Department of Lands and Forests designated by the Lieutenant-Governor in Council as being charged, under the direction of the Minister, with the administration of this Act;
- (b) "Minister" means Minister of Lands and Forests;
- (c) "railway lands" includes all lands heretofore or hereafter set apart under any general or special Act of the Legislature as a land subsidy or otherwise in aid of any railway or of any works in connection therewith or of any works to be established, maintained or carried on by any railway;
- (d) "tenant" includes a licensee and occupant and any person other than the owner having any right to cut timber on railway lands whether the right is derived from the owner or otherwise. R.S.O. 1937, c. 326, s. 1.

2.—(1) The owner or tenant of any railway lands shall pay ^{Annual charge for protection.} to the Minister annually for the uses of Ontario and for the purpose of defraying the expenses of protecting the property, rights and interest of such owner or tenant against fire, for every square mile or fraction thereof of such railway lands a sum not exceeding \$10 per annum, as may be prescribed by the Lieutenant-Governor in Council from time to time. R.S.O. 1937, c. 326, s. 2.

(2) Subject to section 4 the tenant of any railway lands ^{Tenants of railway lands acquired by Crown.} heretofore or hereafter acquired by the Crown shall pay the charge imposed by this Act. 1942, c. 34, s. 33.

3.—(1) A tenant of railway lands shall be jointly and severally liable with the owner for the payment of the charge ^{Liability of tenant.} imposed by this Act and it shall become due and payable on or before the 1st day of April in each year. R.S.O. 1937, c. 326, s. 3 (1); 1941, c. 55, s. 30.

Apportion-
ment of
charge.

(2) If at any time any question arises between the owner and tenant of any railway lands as to the proportion in which the charge imposed by this Act shall be borne as between the owner and tenant, either the owner or the tenant may apply to the Minister to fix the proportion and the decision of the Minister shall be final and binding as between the owner and the tenant. R.S.O. 1937, c. 326, s. 3 (2).

Exemption
of agri-
cultural
lands.

4. Where the owner or tenant of any railway lands furnishes proof to the satisfaction of the Minister on or before the 1st day of January in any year in which the charge imposed by this Act is payable, that such railway lands or any part thereof were during the preceding calendar year actually and in good faith in use for agricultural purposes the owner or tenant shall be entitled to a reduction of the charges payable by him to the extent to which such railway lands were so used, and the decision of the Minister as to such right to exemption shall be final and shall not be open to appeal or be questioned in any manner whatsoever. R.S.O. 1937, c. 326, s. 4.

Recovery
of charge
by action.

5. The charge imposed by this Act shall be a debt due to the Crown and shall be recoverable at the suit of the Minister in an action brought by him in his name of office in any court of competent jurisdiction. R.S.O. 1937, c. 326, s. 5.

Collector's
roll.

6. The collector shall prepare a roll of the lands in respect of which the charge imposed by this Act is payable and shall insert therein such particulars as he may be able to ascertain and as may be required by the regulations. R.S.O. 1937, c. 326, s. 6.

Notice of
charge.

7. The collector shall estimate the amount due in respect of any railway lands in each year and shall insert the amount in the roll and he shall give notice thereof to the owner and to the tenant, if any, in such form and manner as may be prescribed by the regulations. R.S.O. 1937, c. 326, s. 7.

General
notice.

8. The collector shall on or before the 1st day of February in each year cause to be inserted in *The Ontario Gazette* and in a newspaper published in each county and district in which railway lands are situate, a notice of the sum prescribed under section 2 and the date on which the charges imposed by this Act are required to be paid. R.S.O. 1937, c. 326, s. 8.

Arrears
to bear
interest.

9. All arrears in respect to the charge imposed by this Act shall bear interest at the rate of seven per cent per annum from the date when the same became payable. R.S.O. 1937, c. 326, s. 9.

10. Where any sum payable in respect to the charge remains unpaid for a period of two years after the date when payment should have been made, the collector shall cause to be published in *The Ontario Gazette* a notice in the form prescribed by the regulations, describing the lands and stating the amount of arrears payable in respect thereof and notifying all owners and tenants of such lands that unless the arrears are paid within three months from the date of the publication of the notice the Minister may declare the lands and all right, title and interest therein forfeited to the Crown. R.S.O., 1937 c. 326, s. 10.

Forfeiture
of lands
for non-
payment.

11. The notice shall also be published in a newspaper in the county or district in which the railway lands therein described are situate. R.S.O. 1937, c. 326, s. 11.

Notice of
forfeiture.

12. Where the arrears are not paid within the period specified by the notice, the Minister, by a certificate under his hand and seal, may declare the lands, or so much thereof as he may deem sufficient, to be forfeited to the Crown and upon the registration of the certificate in the proper registry or land titles office, the lands described in the certificate and all right, title and interest therein or thereto or arising out of the same shall be forfeited to and be revested in the Crown in right of Ontario. R.S.O. 1937, c. 326, s. 12.

Certificate
of for-
feiture.

13. Where the Minister by his certificate of forfeiture has declared any railway lands forfeited to the Crown under this Act the forfeiture shall have effect and be valid and binding notwithstanding any defect in substance or form in any proceeding taken for the collection of the charge imposed by this Act, and the certificate of forfeiture shall be final and conclusive and no proceedings to set the forfeiture aside shall lie or be taken in any court upon any ground whatsoever. R.S.O. 1937, c. 326, s. 13.

Forfeiture
valid not-
withstand-
ing defects.

14. Where a certificate of forfeiture has been given by the Minister under this Act and the lands in respect of which the certificate was given have not been sold or otherwise disposed of by the Crown, the Minister, upon payment of all arrears then due together with such charges as the Minister may deem reasonable and proper and upon such terms and conditions as he may deem just, may issue a certificate cancelling the forfeiture, and upon registration of the certificate in the proper registry or land titles office the forfeiture shall be cancelled and the owner and the tenant of the lands shall have the same rights therein as if the forfeiture had not taken place. R.S.O. 1937, c. 326, s. 14.

Cancelling
forfeiture
on payment
of arrears.

Regulations. **15.** The Lieutenant-Governor in Council may make regulations,

- (a) designating the collector and prescribing his duties and the procedure in his office;
 - (b) prescribing the forms to be used in carrying out this Act;
 - (c) requiring the owners and tenants of railway lands to furnish such returns and other information to the Minister as may be deemed necessary;
 - (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 326, s. 15.
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CHAPTER 331

The Railways Act

1. In this Act, and in any special Act, in so far as this Act ^{Interpre-} applies thereto, ^{tation.}

- (a) "Board" means the Ontario Municipal Board;
- (b) "by-law," when referring to an act of the company, includes a resolution;
- (c) "company" means a railway, street railway or incline railway company, and includes every such company and any person or municipal corporation having authority to construct or operate a railway or street railway or incline railway;
- (d) "costs" includes fees, counsel fees, and expenses;
- (e) "county" includes district;
- (f) "express toll" means any toll, rate or charge to be charged by the company, or any person or corporation other than the company, to any persons, for hire or otherwise, for or in connection with the collecting, receiving, caring for or handling of any goods for the purpose of sending, carrying or transporting them by express, or for or in connection with the sending, carrying, transporting or delivery by express of any goods, or for any service incidental thereto, or for or in connection with any or either of these objects where the whole or any portion of the carriage or transportation of such goods is by rail upon the railway of the company;
- (g) "goods" includes personal property of every description that may be conveyed upon the railway, or upon steam or other vessels connected with the railway;
- (h) "highway" includes a public road, street, lane, or other public way or communication;
- (i) "inspecting engineer" means an engineer who is directed by the Board to examine a railway or works, and includes two or more engineers when two or more are so directed;

- (j) "judge" means a judge of the Supreme Court or of a county or district court, as the case may be;
- (k) "land" means the land, the acquiring, taking, or using of which is authorized by this or by the special Act, and includes real estate and an easement over or privilege in respect of, and any interest in land;
- (l) "lease" includes an agreement for a lease;
- (m) "owner", where under this Act or the special Act any notice is required to be given to the owner of land, or where any act is authorized or required to be done with the consent of the owner, means the person who, under this Act or the special Act, or any Act incorporated therewith, is enabled to sell and convey the land to the company, and includes a mortgagee of the land;
- (n) "plan" means a ground plan of the land and property taken or intended to be taken;
- (o) "railway" means any railway which the company has authority to construct or operate, and includes all branches, sidings, stations, depots, wharfs, rolling stock, equipment, stores, property real or personal, and works connected therewith, and also any railway bridge, tunnel, or other structure which the company is authorized to construct;
- (p) "registrar of deeds" or "registrar" includes the master of titles, or local master of titles, or other officer with whom the title to the land is registered;
- (q) "registry office" or other words descriptive of the office of the registrar of deeds, includes the land titles office or other office in which the title to the land is registered;
- (r) "rolling stock" means any locomotive, engine, motor car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement on its wheels over or upon the rails or tracks of the company;
- (s) "secretary" means the secretary of the Board;
- (t) "special Act" means any Act authorizing the construction of or otherwise specially relating to a railway or street railway, whether operated by steam, electricity or other motive power, and with which this Act is incorporated;
- (u) "street railway" means a railway constructed or operated along and upon a highway under an agreement with or by-law of a city or town, although it

may at some point or points deviate from the highway to a right-of-way owned by the company, under the powers conferred by section 243, and includes all portions of the railway within the city or town and for a distance of not more than one and one-half miles beyond the limits thereof, although such one and one-half miles may be constructed under a by-law of or agreement with a municipal corporation other than that of such city or town, and also includes any part of an electric railway which lies within the limits of a city or town and is constructed or operated along and upon a highway and includes buses and other vehicular means of transportation operated as part of or in connection with a street railway;

- (v) "toll" or "rate" means any toll, rate, charge or allowance charged or made either by the company, or upon or in respect of a railway owned or operated by the company, or by any person on behalf or under authority or consent of the company, in connection with the carriage and transportation of passengers, or the carriage, shipment, transportation, care, handling or delivery of goods, or for any service incidental to the business of a carrier, and includes any toll, rate, charge or allowance so charged or made in connection with rolling stock, or the use thereof, or any instrumentality or facility of carriage, shipment or transportation, irrespective of ownership or of any contract, express or implied, with respect to the use thereof, and includes also any toll, rate, charge or allowance so charged or made for furnishing passengers with beds or berths upon sleeping-cars, or for the collection, receipt, loading, unloading, stopping over, elevation, ventilation, refrigeration, icing, heating, switching, ferriage, cartage, storage, care, handling or delivery of or in respect of goods transported, or in transit, or to be transported, and includes also any toll, rate, charge or allowance so charged or made for the warehousing of goods, wharfage or demurrage or the like, or so charged or made in connection with any one or more of the above-mentioned objects separately or conjointly;
- (w) "traffic" means the traffic of passengers, goods and rolling stock;
- (x) "train" includes any engine, motor car or other rolling stock;

- (y) "undertaking" means the railway and works of every description which the company has authority to construct or operate;
- (z) "working expenditure" means,
- (i) all expenses of maintenance of the railway,
 - (ii) all such tolls, rents or annual sums as are paid in respect of the hire of rolling stock let to the company, or in respect of property leased to or held by the company, apart from the rent of any leased line,
 - (iii) all rent charges or interest on the purchase money of land belonging to the company purchased but not paid for or not fully paid for,
 - (iv) all expenses of or incidental to working the railway, and the traffic thereon, including all necessary repairs and supplies to rolling stock while on the lines of another company,
 - (v) all rates, taxes and insurance and compensation for accidents or losses,
 - (vi) all sums payable under any Act of the Legislature, to workmen or their dependants as compensation for injuries sustained or industrial diseases contracted in the course of their employment,
 - (vii) all salaries and wages of persons employed in and about the working of the railway and traffic,
 - (viii) all office and management expenses, including directors' fees, and agency, legal, and other like expenses,
 - (ix) all costs and expenses of and incidental to the compliance by the company with any order of the Board, and
 - (x) generally, all such charges, if any, not hereinbefore otherwise specified, as in all cases of English railway companies are usually carried to the debit of revenue as distinguished from capital account. R.S.O. 1937, c. 259, s. 1.

APPLICATION OF ACT

Application
of Act.

2. This Act shall, unless otherwise expressed, apply to all railways, other than Government railways, and when so expressed, and not otherwise, to street railways and incline

railways howsoever incorporated, and whether operated by steam, electricity or other motive power, and whether constructed on highways or on lands owned by the company or partly on highways and partly on such lands, and shall be deemed to be incorporated and shall be construed as one Act with the special Act, subject as herein provided. R.S.O. 1937, c. 259, s. 2.

3.—(1) The provisions of this Act in respect of tolls, tariffs and joint tariffs shall, so far as they are applicable, extend to the traffic carried by any company by water, between any ports or places in Ontario, if the company owns, charters, uses, maintains or works, or is a party to any arrangement for using, maintaining or working vessels for carrying traffic by water between any such ports or places.

Application of tolls and tariff provisions to traffic by water.

(2) The provisions of this Act in respect of tolls shall, in so far as they are applicable, extend and apply to,

Provisions as to tolls,

(a) any company which has power under any special Act to construct, maintain and operate any bridge or tunnel for railway purposes, or for railway and traffic purposes, and to charge tolls for traffic carried over, upon or through such structure by any railway; and

to apply to bridge or tunnel company;

(b) the traffic so carried over, upon or through such structure. R.S.O. 1937, c. 259, s. 3.

and to traffic.

4. Any section of this Act may, by the special Act, be excepted from incorporation therewith, or may thereby be extended, limited or qualified, and it shall be sufficient, for the purposes of this section, to refer to any section of this Act by its number merely. R.S.O. 1937, c. 259, s. 4.

Exceptions, qualifications, etc., in special Act.

5. If in any special Act heretofore passed it is enacted that any provision of *The Railway Act of Ontario*, *The Electric Railway Act*, *The Street Railway Act* or *The Ontario Railway Act, 1906*, in force at the time of the passing of such special Act, is excepted from incorporation therewith, or if the application of any such provision is, by such special Act, extended, limited or qualified, the corresponding provision of this Act shall be taken to be excepted, extended, limited or qualified in like manner, and, unless otherwise expressly provided in this Act or the special Act, this Act shall apply to every railway company incorporated under a special Act or any general Act, and the sections expressly made applicable shall apply to every street railway company so incorporated, but where the provisions of the special Act and the provisions of this Act

As to exceptions etc., previous to this Act.

R.S.O. 1897, cc. 207, 208. 209; 6 Edw. VII, c. 30.

Conflict between this Act and special Act.

are inconsistent the special Act shall be taken to over-ride the provisions of this Act so far as is necessary to give effect to such special Act. R.S.O. 1937, c. 259, s. 5.

What sections to apply to street railway companies,

6.—(1) Sections 7 to 51, 53 to 58, 65 to 67, 97, 103, 105, 110, 111, 116, 117, 129, 143, 147, 148, 154, 156, 162, 163 to 172, 175, 176, 226, 227, 266 to 268, 274 to 282, 286 to 301, 303 and 304, shall apply to street railway companies.

or to incline railways.

(2) Sections 7 to 51, 53 to 58, 97, 103, 110, 111, 120, 129, 143, 147, 162, 177, 219, 236 to 238, 240, 258, 266 to 268, 274 to 282, 286 to 301 and 304, shall apply to incline railways. R.S.O. 1937, c. 259, s. 6.

ORGANIZATION OF THE COMPANY

Offices

Head office.

7. The head office of the company shall be at the place designated in the special Act, but the company may, by by-law, from time to time, change the location of its head office to any place in Ontario, notice whereof shall be given to the secretary of the Board who shall keep a register for the purpose of recording all changes so notified. R.S.O. 1937, c. 259, s. 7.

Provisional Directors

Provisional directors.

8.—(1) The persons mentioned by name as such in the special Act shall be the provisional directors of the company, and a majority of them shall be a quorum, and they shall hold office as such until the first election of directors, and may forthwith open stock books and procure subscriptions for shares, and receive payments on account thereof, and make calls upon subscribers in respect of their shares, and sue for and recover the same, and receive for the company any grant, loan, bonus or gift made to it or in aid of the undertaking, and enter into any agreement authorized by this Act or by the special Act, with the person or corporation making such grant, loan, bonus or gift respecting the condition or disposition thereof, and cause plans and surveys to be made, and shall deposit in a chartered bank of Canada, having an office in Ontario, all money received by them, which shall not be withdrawn, except for the purposes of the undertaking, or upon the dissolution of the company.

Changes in board of provisional directors.

(2) The provisional directors may add to their number, or substitute for any member, whether named in the special Act, or by the provisional directors, who may desire to resign or withdraw, any other person as a provisional director.

Allotment of stock.

(3) If more than the whole stock has been subscribed the provisional directors shall allocate and apportion the author-

ized stock among the subscribers as they deem most advantageous and conducive to the furtherance of the undertaking, and in such allocation and apportionment they may exclude any one or more of the subscribers, if, in their judgment, such exclusion will best secure the building of the railway.

(4) All meetings of the provisional directors shall be held Meetings. at the head office of the company or at such other place in Ontario as may, in their opinion, best suit the interests of the company.

(5) No subscription for shares shall be binding on the company unless approved by resolution of the provisional directors or of the directors, nor unless ten per cent of the amount subscribed has been actually paid within one month after subscription. When subscription for stock to be binding. R.S.O. 1937, c. 259, s. 8.

Capital

9.—(1) The capital stock of the company, the amount of Capital stock and shares. which shall be stated in the special Act, shall be divided into shares of \$100 each, and the money so raised shall be applied, in the first place, to the payment of all fees, expenses and disbursements for procuring the passing of the special Act, and for making the surveys, plans and estimates of the works authorized by the special Act, and the remainder of such money shall be applied to the making, equipping, completing and maintaining of the railway and other purposes of the undertaking.

(2) So soon as twenty-five per cent of the capital stock is subscribed and ten per cent paid thereon into a chartered bank of Canada, having an office in Ontario, to the credit of the company, the provisional directors, or a majority of them, shall call a general meeting of the shareholders for the purpose of electing directors of the company, giving at least four weeks' notice by advertisement in *The Ontario Gazette*, and in at least one newspaper published in the place where the head office is situate, of the time, place and purpose of the meeting. Calling first meeting for election of directors.

(3) If the provisional directors neglect to call such meeting for three months after twenty-five per cent of the capital stock has been subscribed and ten per cent thereof paid up, the meeting may be called by any five of the subscribers who have so paid up ten per cent and who collectively have subscribed for not less than twenty-five shares of the capital stock and who have paid up all calls thereon. When subscribers may call first general meeting.

(4) At such general meeting the shareholders present, First election of directors. either in person or by proxy, who at the opening of such meeting have paid up ten per cent on the shares subscribed by them, shall elect directors, in manner and qualified as herein-

after mentioned, who shall constitute the board of directors and hold office until the next general annual meeting. R.S.O. 1937, c. 259, s. 9.

Increase of
capital
stock.

10.—(1) The capital stock of the company may, with the approval of the Board, be increased, from time to time, to any amount, if,

- (a) the increase is sanctioned by a vote, in person or by proxy, of the shareholders who hold at least two-thirds in amount of the subscribed stock of the company, at a meeting expressly called by the directors for that purpose; and
- (b) the proceedings of such meeting have been entered in the minutes of the proceedings of the company.

Notice of
meeting
and object.

(2) Notice in writing, stating the time, place and object of such meeting, and the amount of the proposed increase, shall be given to each shareholder at least twenty days before the meeting by delivering the notice to the shareholder personally or depositing it in the post office, post paid and properly directed to the shareholder.

Fees.

(3) Such fees as may be prescribed in the case of other companies shall be payable in respect of applications to the Board for its approval of the increase of the capital stock of the company. R.S.O. 1937, c. 259, s. 10.

General Meetings

Shareholders'
meetings.

11.—(1) A general meeting of the shareholders for the election of directors and for the transaction of other business connected with or incident to the undertaking, to be called the annual meeting, shall be held annually on the day mentioned in the special Act, or on such day as may be fixed for that purpose by the by-laws of the company, and other general meetings, to be called special meetings, may be called at any time by the directors, or by shareholders representing at least one-fourth in value of the subscribed stock, if the directors, having been requested by such shareholders to convene such special meeting for twenty-one days thereafter fail to call such meeting.

Place of
annual
meetings.

(2) The annual meetings shall be held at the head office of the company.

Place of
special
meetings.

(3) Special meetings may be held at such places in Ontario and at such times and in such manner and for such purposes as may be provided by the by-laws of the company. R.S.O. 1937, c. 259, s. 11.

12.—(1) Two weeks' notice of any meeting of the shareholders shall be given by advertisement once in each week for two successive weeks in at least one newspaper published in the place where the head office is situate. Notice of meetings.

(2) The notice shall specify the place and the day and the hour of the meeting, and a copy of the newspaper containing the notice shall be evidence of the publication. R.S.O. 1937, c. 259, s. 12. Idem.

13.—(1) Any business connected with or incident to the undertaking may be transacted at an annual meeting, excepting such business as by this Act is required to be transacted at a special meeting; but no special meeting shall enter upon any business not set forth in the notice by which it is convened. What business may be transacted.

(2) At any meeting of the shareholders every shareholder shall be entitled to as many votes as he holds shares in the company upon which all calls due have been paid. Votes according to shares.

(3) Every shareholder may vote by proxy if such proxy produces from his constituent an appointment in writing in the words or to the effect following: Privilege to vote by proxy.

I,, of, one of the shareholders of the, do hereby appoint, to be my proxy, and in my absence to vote for me or give my assent to any business, matter or thing relating to the undertaking of the that is mentioned or proposed at any meeting of the shareholders of the company, in such manner as he thinks proper. Form of proxy.

In witness whereof, I have hereunto set my hand and seal, the day of, 19

(4) A vote by proxy shall be as valid as if the constituent had voted in person, but no person shall be qualified to be appointed a proxy who is not himself a shareholder, and every matter or thing proposed or considered at any meeting of the shareholders shall be determined by the majority of votes, and all decisions and acts of any such majority shall bind the company and be deemed the decisions and acts of the company. R.S.O. 1937, c. 259, s. 13. Qualification of proxy.

14. A copy of the minutes of proceedings and resolutions of the shareholders of the company at any annual or special meeting, or of the minutes of proceedings and resolutions of the directors at their meetings, extracted from the minute book kept by the secretary of the company and by him certified to be a true copy extracted from such minute book and purporting to be sealed with the company's seal shall, without proof of the signature of the secretary, be evidence of such proceedings and resolutions. R.S.O. 1937, c. 259, s. 14. Evidence of minutes, etc.

Effect of
notices by
secretary.

15. All notices given by the secretary of the company by order of the directors shall be deemed notices by the directors of the company. R.S.O. 1937, c. 259, s. 15.

Directors

Election of
board of
directors.

16.—(1) A board of directors of the company to manage its affairs, the number of whom shall be stated in the special Act, and a majority of whom shall form a quorum, shall be chosen at the annual meeting, and if such election is not held on the day appointed therefor the directors shall cause the election to be held at a special meeting duly called for that purpose within as short a time as possible after the day so appointed.

Who entitled
to vote.

(2) No person shall be admitted to vote at such special meeting unless he would have been entitled to vote had the election been held on the day on which it ought to have been held.

Vacancies.

(3) Vacancies in the board of directors shall be filled in the manner prescribed by the by-laws.

Qualification
of directors.

(4) No person shall be a director unless he is a shareholder owning at least ten shares absolutely in his own right and qualified to vote for directors at the election at which he is chosen.

When
majority to
be British
subjects.

(5) If the company has received aid towards the construction of its railway or undertaking, or any part thereof, from the Government of Ontario under any Act of the Legislature, a majority of its directors shall be British subjects.

Term of
office.

(6) The directors appointed at the last election or those appointed in their stead, in case of vacancy, shall remain in office until the next ensuing election of directors.

Vacancies.

(7) So long as a quorum of directors remains in office vacancies in the board may be filled by such directors as remain in office.

When no
quorum.

(8) Whenever there is not a quorum of directors in office it shall be the duty of the remaining directors or director forthwith to call a meeting of the shareholders to fill the vacancies, and in default the meeting may be called by any shareholder.

When no
directors.

(9) If there are no directors remaining in office a meeting to elect directors may be called without service of any requisition.

President,
vice-
president.

(10) The directors shall, at their first or at some other meeting after the election, elect one of their number to be the president of the company who shall, when present, be the

chairman at all meetings of the directors, and shall hold his office until he ceases to be a director, or until another president has been elected in his stead, and they may in like manner elect a vice-president who shall act as chairman in the absence of the president.

(11) The directors, at any meeting at which not less than a ^{Powers of quorum.} quorum are present, shall be competent to use and exercise all and any of the powers vested in the directors.

(12) The act of a majority of a quorum of the directors ^{Powers of majority of quorum.} present at any meeting regularly held shall be deemed the act of the directors.

(13) No director shall have more than one vote at any ^{Casting vote.} meeting, except the chairman, who shall, in case of a division of equal numbers, have the casting vote. R.S.O. 1937, c. 259, s. 16.

17. The directors shall be subject to the control of the ^{Submission of directors to control of shareholders and to by-laws.} shareholders at their annual meetings, and to all by-laws of the company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the special Act. R.S.O. 1937, c. 259, s. 17.

18.—(1) No person concerned or interested in any con- ^{Contractors with company not to be directors.} tract under or with the company, or being surety for any contractor, shall be capable of being chosen a director, or of holding or continuing in the office of director or provisional director, nor shall any person being a director or provisional director or promoter of the company enter into or be directly or indirectly interested or concerned in or participate in the profit of any contract with the company, not relating to the purchase of land necessary for the railway, or be or become a partner of any contractor with the company.

(2) If any such contract is made by or on behalf of any ^{Liability of person offending.} director or provisional director or promoter an action shall lie against him at the suit of any shareholder or of the corporation of any municipality through which any part of the railway passes, for the benefit of the funds of the company, for the whole amount of profit accruing to such director, provisional director or promoter from the contract. R.S.O. 1937, c. 259, s. 18.

19.—(1) The directors may make rules, regulations and ^{Power of directors to make regulations.} by-laws not inconsistent with this Act for the management and disposition of the shares, property, business and affairs

of the company and for the appointment of all officers, servants and artificers and for prescribing their duties and salaries.

Manager.

(2) The directors may employ and pay one of their number as managing director. R.S.O. 1937, c. 259, s. 19.

Appointment of officers.

20. The directors may appoint such officers as they deem requisite, and shall take sufficient security from the manager and officers for the safe keeping and accounting by them of the money raised by virtue of this Act and the special Act, and for the faithful execution of their offices. R.S.O. 1937, c. 259, s. 20.

Retirement of officers, etc.

21. The directors may by by-law or resolution provide for the retirement of any of the company's officers and servants, on such terms as to an annual allowance or otherwise, as the directors, in the interest of the company's service and under the circumstances, consider just and reasonable. R.S.O. 1937, c. 259, s. 21.

Remuneration of directors.

22. The directors may be paid such reasonable remuneration for their services as may be sanctioned by the shareholders by resolution passed at the annual general meeting to be held for the purpose of electing the successors of such directors. R.S.O. 1937, c. 259, s. 22.

Acting president.

23. In case of the absence or illness of the president, the vice-president, and in the case of the absence or illness of the president and vice-president, a director appointed by the directors for that purpose shall have all the rights and powers of the president, and may sign all debentures and other instruments, and perform all acts which, by the regulations and by-laws of the company or by this Act, are required to be signed, performed or done by the president. R.S.O. 1937, c. 259, s. 23.

Noting absence of president, etc., in minutes.

24. The directors may at any meeting require the secretary to enter a note of such absence or illness upon the minutes of the meeting, and a certificate thereof signed by the secretary shall be delivered to any person requiring the same on payment of \$1, and such certificate shall be *prima facie* evidence of such absence, or illness at and during the period mentioned in the certificate. R.S.O. 1937, c. 259, s. 24.

Accounts.

25. The directors shall cause to be kept, and, annually on the 31st day of December, shall cause to be made up and balanced a true, exact and particular account of all money received by the company, or by the directors or manager

thereof, or otherwise for the use of the company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the company. R.S.O. 1937, c. 259, s. 25.

Calls

26.—(1) The directors may from time to time make such ^{Calls.} calls, not exceeding ten per cent of the amount subscribed, upon the shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they deem necessary, and at least thirty days' notice shall be given of each call, and no call shall exceed the prescribed amount determined in the special Act, or be made at a less interval than two months from the previous call, nor shall a greater amount be called in, in any one year, than the amount prescribed in the special Act; but nothing herein shall prevent the directors from making more than one call by one resolution if the intervals between such calls, the notices of each call, and the other provisions of this Act and of the special Act, in respect of calls, are duly observed and given.

(2) All notices of calls shall be published in *The Ontario* ^{Publication.} *Gazette.*

(3) Every shareholder shall be liable to pay the amount ^{Liability for} of the call to the persons and at the times and places from ^{payment} time to time appointed by the company or the directors. ^{of calls.}

(4) Interest shall accrue upon the amount of any unpaid ^{Interest on} call from the day appointed for the payment thereof to the ^{unpaid calls.} time of the actual payment.

(5) In an action to recover money due upon a call it shall ^{What} be sufficient to state that the defendant is the holder of one ^{allegations} share or more, stating the number of shares, and is indebted ^{necessary} in the sum of money to which the calls in arrear amount, ^{in actions} stating the number and amount of each call, whereby an ^{for calls.} action has accrued to the company by virtue of the special Act. R.S.O. 1937, c. 259, s. 26.

Shares and Their Transfer

27.—(1) The shares of the company shall be deemed ^{Shares to} personal estate and shall be transferable on the books of the ^{be deemed} company in such manner and subject to such conditions and ^{personal} restrictions as, by this Act, the special Act, the letters patent, ^{estate, how} supplementary letters patent or by-laws of the company, ^{transferable.} may be prescribed.

(2) Subject to subsection 1 no by-law shall be passed which ^{No restric-} in any way restricts the rights of a holder of paid-up shares ^{tions upon} ^{transfer of} ^{paid-up} ^{shares.}

to transfer the same, but nothing in this section shall prevent the regulation of the mode of transfer thereof. R.S.O. 1937, c. 259, s. 27.

Transfer of
shares not
paid up.

28. No transfer of shares, the whole amount whereof has not been paid up, shall be made without the consent of the directors. R.S.O. 1937, c. 259, s. 28.

Transmis-
sion of
shares, other
than by
transfer,
provided for.

29. If any share is transmitted by the death, bankruptcy, or last will, donation or testament, or by the intestacy of any shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the person to whom the share is so transmitted shall deposit in the office of the company a statement in writing signed by him declaring the manner of such transmission together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or proof as may be necessary, and until that has been done such person shall not be entitled to receive any share of the profits of the company, or to vote in respect of any such share as the holder thereof. R.S.O. 1937, c. 259, s. 29.

Company
not bound
to see to
execution
of trusts.

30. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which the share may be subject, and the receipt of the person in whose name any share stands in the books of the company, or if it stands in the names of more persons than one, the receipt of one of the persons named in the register of shareholders, shall be a sufficient discharge to the company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the company has had notice of the trust, and the company shall not be bound to see to the application of the money paid upon such receipt. R.S.O. 1937, c. 259, s. 30.

Prima facie
evidence of
title.

31. The certificate of proprietorship of a share shall be *prima facie* evidence of the title of the person named therein, his executors, administrators, successors or assigns, to the share. R.S.O. 1937, c. 259, s. 31.

Non-pay-
ment of
calls.

32.—(1) Every shareholder who makes default in the payment of any call payable by him, together with the interest, if any, accrued thereon, for the space of two months after the time appointed for the payment thereof, shall forfeit to the company his shares in the company and all the profit and benefit thereof.

When
forfeiture
enforceable.

(2) No advantage shall be taken of the forfeiture unless the shares are declared to be forfeited at a general meeting

of the company, assembled at any time after such forfeiture has been incurred. R.S.O. 1937, c. 259, s. 32.

33. Every shareholder so forfeiting shall be by such forfeiture relieved from liability in all actions, suits or prosecutions whatsoever which may be commenced or prosecuted against him for any breach of the contract existing between him and the other shareholders by reason of his having subscribed for or become the holder of the shares so forfeited. R.S.O. 1937, c. 259, s. 33. Effect of forfeiture.

34.—(1) The directors may, subject as hereinafter provided, sell, either by public auction or private sale, any shares so declared to be forfeited upon authority therefor having been first given by the shareholders, either at the general meeting at which such shares were declared to be forfeited or at any subsequent general meeting. Sale of forfeited shares.

(2) The directors shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of the sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending the sale and declaration of forfeiture. Limitation.

(3) If the money produced by the sale of any such forfeited shares is more than sufficient to pay all arrears of calls and interest thereon due at the time of the sale and the expenses attending the declaration of forfeiture and the sale of such shares, the surplus shall, on demand, be paid to the defaulter. Surplus proceeds to defaulter.

(4) If payment of arrears of calls and interest and expenses is made before any share so forfeited and vested in the company is sold, the share shall revert to the person to whom it belonged before the forfeiture, who shall be entitled thereto as if such calls had been duly paid. Payment of arrears before sale.

(5) Any shareholder may purchase any forfeited share so sold. R.S.O. 1937, c. 259, s. 34. Who may purchase.

35.—(1) A certificate of the treasurer of the company that any share of the company has been declared forfeited for non-payment of any call, and that the share has been purchased by a purchaser therein named shall, together with the receipt of the treasurer of the company for the price of the share, constitute a good title thereto. Certificate of treasurer to constitute title.

(2) Such certificate shall be registered by the treasurer in the name and with the place of abode and occupation of the purchaser, and shall be entered in the books to be kept by the To be registered.

company, and the purchaser shall thereupon be deemed to be the holder of the share.

Purchase money.

(3) The purchaser shall not be bound to see to the application of the purchase money.

Irregularity.

(4) The title of the purchaser to such share shall not be affected by any irregularity in the proceedings in reference to such sale. R.S.O. 1937, c. 259, s. 35.

Right to pay in advance of calls.

36.—(1) A shareholder who is willing to advance the amount of his shares or any part of the money due upon his shares beyond the sums actually called for, may pay the same to the company.

Interest on advance made by shareholder to company.

(2) Upon the principal money so paid in advance, or so much thereof as, from time to time, exceeds the amount of the calls then made upon the shares in respect to which the advance is made, the company may pay interest, at such rate as the shareholders who pay such sum in advance and the company agree upon.

Condition.

(3) Such interest shall not be paid out of the capital subscribed. R.S.O. 1937, c. 259, s. 36.

Shareholders

Extent of shareholders' liability.

37. Every shareholder shall be individually liable to the creditors of the company for the debts and liabilities of the company to an amount equal to the amount unpaid on the stock held by him, and until the whole amount of his stock has been paid up; but no action shall be instituted or maintained against any shareholder in respect of such liability until an execution at the suit of the creditor against the company has been returned unsatisfied in whole or in part. R.S.O. 1937, c. 259, s. 37.

Account of names and residence of shareholders to be kept.

38. A true and perfect account of the names and places of abode of the several shareholders shall be entered in a book to be kept for that purpose, as well as of the several persons who from time to time become proprietors of or entitled to any shares therein, and of all the other acts, proceedings and transactions of the company and of the directors for the time being and such account shall be open to the inspection of the shareholders. R.S.O. 1937, c. 259, s. 38.

Rights of aliens or non-residents.

39. All shareholders in the company, whether British subjects or aliens, or resident in Ontario or elsewhere, shall have equal rights to hold stock in the company, and to vote on the same, and, subject as herein provided, shall be eligible to office in the company. R.S.O. 1937, c. 259, s. 39.

Preference Stock

40.—(1) The directors may pass by-laws for creating and issuing any part of the capital stock as preference stock, giving the same such preference and priority as respects dividends and otherwise over ordinary stock as may be declared by the by-law. By-law for issuing.

(2) The by-law may provide that the holders of shares of preference stock shall have the right to elect a certain stated proportion of the board of directors, or may give them such other control over the affairs of the company as may be considered expedient. Special rights of preference share-holders.

(3) Subject to subsection 4 no such by-law shall have any force or effect until it has been unanimously sanctioned by a vote of the shareholders present, in person or by proxy, at a general meeting of the company duly called for considering the same, or unanimously sanctioned in writing by the shareholders of the company. Unanimous sanction required.

(4) If the by-law is sanctioned by three-fourths in value of the shareholders the company may apply to the Board for an order approving the by-law, and the Board may approve thereof and from the date of the approval the by-law shall be valid and may be acted upon. Approval of Board.

(5) Holders of shares of preference stock shall be shareholders within the meaning of this Act, and shall in all respects possess the rights and be subject to the liabilities of shareholders, except that in respect of dividends and otherwise they shall, as against the ordinary shareholders, be entitled to the preferences and rights given by such by-law. Rights and liabilities of preference share-holders.

(6) Nothing in this section or done in pursuance of it shall affect or impair the rights of creditors of the company. Rights of creditors preserved. R.S.O. 1937, c. 259, s. 40.

Dividends and Interest

41. Dividends, at and after the rate of so much per share upon the several shares held by the shareholders in the stock of the company, may, from time to time, be declared and paid by the directors out of the net profits of the undertaking. R.S.O. 1937, c. 259, s. 41. Declaration of dividends.

42.—(1) The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing, maintaining, renewing or extending the railway or any portion thereof, and shall submit their action in regard to such reserve fund to the shareholders at a general meeting for their approval. Reserve fund.

Investment
of same.

(2) The directors may invest the sum so set apart as a reserve fund in such securities, not inconsistent with this or the special Act as they select. R.S.O. 1937, c. 259, s. 42.

Dividend
not to
impair
capital, etc.

43. No dividend shall be,

- (a) declared whereby the capital of the company is in any degree reduced or impaired; or
- (b) paid out of capital; or
- (c) paid in respect of any share after a day appointed for payment of any call in respect thereof, until the call has been paid,

but the directors may, in their discretion, until the railway is completed and opened to the public, pay interest, at any rate not exceeding five per cent per annum, on all sums actually paid in cash in respect of the shares, from the respective days on which the same have been paid, and such interest shall accrue and be paid at such time and places as the directors appoint for that purpose. R.S.O. 1937, c. 259, s. 43.

None on
calls in
arrear.

44. No interest shall accrue to any shareholder in respect of any share upon which any call is in arrear, or in respect of any other share held by such shareholder while such call remains unpaid. R.S.O. 1937, c. 259, s. 44.

Deduction
of arrears
from
dividends.

45. The directors may deduct from any dividend payable to any shareholder all or any such sum or sums of money as are due from him to the company on account of any call or otherwise. R.S.O. 1937, c. 259, s. 45.

Bonds, Mortgages and Borrowing Powers—Foreclosure

When issue
of securities
authorized.

46.—(1) The directors, under the authority of the shareholders, given at a special meeting called for the purpose or at any annual meeting for which like notice of intention to apply for such authority has been given as is required in the case of a special meeting, and at which meeting, whether annual or special, shareholders representing at least two-thirds in value of the subscribed stock of the company and who have paid all calls due thereon are present in person or represented by proxy, may, subject to this Act and the special Act, issue bonds, debentures, perpetual or terminating debenture stock, or other securities, signed by the president or other presiding officer and countersigned by the secretary, which countersignature and the signature to the coupons attached to the same may be engraved, and such securities may be made payable at such times and in such manner and at such place or places in Canada or elsewhere as the directors

think proper, and may bear such rate of interest per annum as may be approved by the Board.

(2) Such securities shall not exceed the amount authorized by the special Act and may be issued only in proportion to the length of railway constructed or under contract to be constructed. Limit of bonding powers.

(3) The directors may, for the purpose of raising money for prosecuting the undertaking, issue and sell or pledge all or any of such securities. Raising money on securities.

(4) No such security shall be for a less sum than \$100. Denominations.

(5) The power of issuing securities conferred by this or the special Act shall not be exhausted by any issue; but may be exercised from time to time upon the securities constituting the issue being withdrawn or paid off and duly cancelled; but in no case shall the limit fixed in the special Act be exceeded. R.S.O. 1937, c. 259, s. 46. Continuance of right to issue securities.

47.—(1) The company may secure such bonds, debentures, debenture stock or other securities, by a deed creating such mortgage, charge or encumbrance upon the whole of such property, assets, rents and revenues of the company, present or future or both as are described in the deed; but the same shall be subject in the first instance to the payment of any penalty imposed for non-compliance with this Act and next to the payment of the working expenditure of the railway. Mortgages securing bonds, etc.

(2) By the deed the company may grant to the holders of such securities, or the trustees named in the deed, the powers, rights and remedies granted by this Act in respect of such securities, and all other powers, rights and remedies, not inconsistent with this Act, or may restrict the holders in the exercise of any power, privileges or remedy granted by this Act, and all the powers, rights and remedies so provided for shall be valid and binding and available to the holders in manner and form as therein provided. Powers conferred on holders.

(3) The company may except from the operation of any such deed any property, assets, rents or revenue of the company, and may declare and provide therein that the mortgage shall only apply to and affect certain sections or portions of the railway or property of the company, but where any such exception is made, the company shall in the deed expressly specify and describe with sufficient particularity to identify the same, the property, assets, rents or revenue of the company, or the sections or portions of the railway not intended to be included therein or conveyed thereby. Exception of part of assets.

Mortgage to be deposited with the Board and notice given.

(4) Every such deed, and every assignment thereof or other instrument in any way affecting such mortgage or security, shall be deposited in the office of the Board, of which deposit notice shall forthwith be given in *The Ontario Gazette*, and such deed or other instrument need not be registered under any law respecting registration of instruments affecting real or personal property.

Evidence.

(5) A copy of any such deed or instrument so deposited certified to be a true copy by the secretary, shall be *prima facie* evidence of the original without proof of the signature of such official. R.S.O. 1937, c. 259, s. 47.

Effect of securities as a preferential charge

48.—(1) Subject as hereinbefore provided to the payment of penalties, and to the working expenditure of the railway and to any restriction or exception contained in the deed, the securities hereby authorized to be issued shall be the first preferential claim and charge upon the company, and the franchise, undertaking, tolls and income, rents and revenues, and real and personal property thereof, at any time acquired.

Holders ranked *pro rata*.

(2) Each holder of such securities shall be deemed to be a mortgagee or encumbrancer upon the securities, *pro rata* with all the other holders, but no proceeding authorized by law or by this Act shall be taken to enforce payment of such securities or of the interest thereon except through the trustee or trustees appointed by or under the deed. R.S.O. 1937, c. 259, s. 48.

Rights of holders of securities upon default in payment.

49.—(1) If the company makes default in paying the principal of or interest on any of such securities when the same becomes due and payable, then at the next annual general meeting of the company, and at all subsequent meetings, all holders of securities so being and remaining in default shall, in respect thereof, have the same rights and privileges and qualifications for being elected directors and for voting at general meetings as would attach to them as shareholders if they held fully paid-up shares of the company to a corresponding amount.

Right of holders to vote at meetings, how determined.

(2) Each such holder shall, for the purpose of voting at any such meeting, be deemed to be a shareholder and shall be entitled to as many votes as if he held shares in the company on which all calls had been paid, equal at a par valuation to the amount of such securities so held by him, and may vote by proxy in like manner and to the same extent as a shareholder; but no person who is not himself a holder of such security or a shareholder in the company shall be qualified to be appointed a proxy.

(3) The rights given by this section shall not be exercised by any such holder unless it is so provided by the deed, nor unless the security in respect of which he claims to exercise such rights has been registered in his name, in the same manner as the shares of the company are registered, at least ten days before he attempts to exercise the right of voting thereon, and the company shall be bound on demand to register such securities, and thereafter any transfers thereof in the same manner as shares or transfers of shares.

Limitation of right of voting.

(4) The exercise of the rights given by this section shall not take away, limit or restrict any other of the rights or remedies to which the holders of the securities are entitled under the deed. R.S.O. 1937, c. 259, s. 49.

Other rights under mortgage deed preserved.

50. All securities hereby authorized may be made payable to bearer, and shall in that case be transferable by delivery, until registration thereof as hereinbefore provided, and while so registered they shall be transferable by written transfers registered in the same manner as the transfers of shares. R.S.O. 1937, c. 259, s. 50.

Mode of transfer of securities.

51.—(1) The company may, for the purposes of the undertaking, borrow money by overdraft or upon promissory note, bill of exchange, warehouse receipt, or otherwise upon the credit of the company, and become party to promissory notes and bills of exchange.

Borrowing money by overdraft or negotiable instrument.

(2) Every such note or bill made, drawn, accepted or endorsed by the president or vice-president or other officer authorized by the by-laws, and countersigned by the secretary, shall be binding on the company and shall be presumed to have been made, drawn, accepted or endorsed with proper authority until the contrary is shown.

Binding nature of instrument.

(3) It shall not be necessary to have the seal of the company affixed to any such note or bill nor shall the president or vice-president or secretary or other officer so authorized be individually responsible for the same, unless the note or bill has been issued without proper authority.

No seal necessary.

(4) Nothing in this section shall be construed to authorize the company to issue any such note or bill payable to bearer, or intended to be circulated as money or as the note or bill of a bank. R.S.O. 1937, c. 259, s. 51.

Notes not to be payable to bearer.

52.—(1) In this section,

(a) "purchaser" includes a mortgagee or his assigns who has obtained title by foreclosure;

Interpretation.

(b) "conveyance" includes a judgment or order for foreclosure.

Enforcing mortgages.

(2) Every mortgage heretofore or hereafter made by a railway, electric railway, street railway or incline railway company may be enforced by judgment for foreclosure or sale in the same manner and to the same extent as it could be so enforced if it had been made by a company not incorporated for any public purpose.

Purchaser without corporate powers to obtain authority to operate.

(3) If a railway, electric railway, street railway or incline railway or any section thereof is sold under any deed or mortgage, or at the instance of the holders of any mortgage, bonds or debentures, for the payment of which any charge has been created thereon, or under any other lawful proceeding, and is purchased by any person not having corporate power to hold and operate the same, the purchaser shall not run or operate the same until authority therefor has been obtained as in this section provided.

Application to Provincial Secretary by purchaser.

(4) The purchaser shall transmit to the Provincial Secretary an application in writing stating the fact of such purchase, describing the termini and lines of route of the railway purchased, specifying the charter or special Act under which the same was constructed and operated, and requesting authority to run and operate the same, and shall, with such application, transmit a copy of any writing preliminary to the conveyance of the same, made as evidence of such sale, and also a duplicate or authenticated copy of the deed of conveyance of the same, and such further details and information as the Provincial Secretary may require.

Interim authorization by Provincial Secretary.

(5) Upon any such application the Provincial Secretary may, if he is satisfied therewith, grant an order authorizing the purchaser to run and operate the railway purchased until the end of the then next session of the Legislature, subject to such terms and conditions as the Provincial Secretary may deem expedient.

How far purchaser thereupon authorized to operate railway.

(6) The purchaser shall thereupon be authorized, for such period only and subject to such order, to operate the railway purchased and to take and receive such tolls in respect of traffic carried thereon as the company previously owning and operating the same was authorized to take, and the purchaser shall also be subject to the terms and conditions of the charter or special Act of the company in so far as they can be made applicable.

Application to Legislature.

(7) Such purchaser shall apply to the Legislature at the next following session thereof after the granting of such order by the Provincial Secretary for an Act of incorporation or other legislative authority, to hold, operate and run the railway.

(8) If such application is made and is unsuccessful the Provincial Secretary may extend the order to run and operate the railway purchased until the end of the then next following session of the Legislature, and no longer. One extension allowed.

(9) If during such extended period the purchaser does not obtain such Act of incorporation or other legislative authority the railway purchased shall be closed or otherwise dealt with by the Provincial Secretary as may be determined by the Lieutenant-Governor in Council. R.S.O. 1937, c. 259, s. 52. Closing of road.

POWERS

General Powers

53. The company may, for the purpose of the undertaking, subject to this and the special Act, Of company,

- (a) enter into and upon any land of any person whomsoever lying in the intended route or line of the railway, and make surveys, examinations or other necessary arrangements on the land for fixing the site of the railway, and set out and ascertain such parts of the land as are necessary and proper for the railway; entry upon land;
- (b) receive, take and hold all voluntary grants and donations of land or other property or any bonus of money or debentures, or other benefit of any sort made to it for the purpose of aiding in the construction, maintenance and accommodation of the railway; but the same shall be held and used for the purpose of such grants or donations only; receive grants and bonuses;
- (c) purchase, take and hold of and from any person any land or other property necessary for the construction, maintenance and operation of the railway, and also alienate, sell or dispose of any land or property of the company which for any reason has become unnecessary for the purposes of the railway; acquire property; dispose of property not required;
- (d) make, carry or place the railway across or upon any land of any person on the located line of the railway; placing of railway;
- (e) cross any railway, or join the railway with any other railway at any point on its route, and upon the land of such other railway, with the necessary conveniences for the purposes of such connection, and the owners of both railways may unite in forming such intersection and grant the facilities therefor, and the amount of compensation to be made therefor, the point and manner of such crossing and connection shall be determined by the Board, as provided by this Act; cross and connect with other railways;

construction
and opera-
tion of
railway;

- (f) make, complete, operate, alter and maintain the rail-
way with one or more sets of rails or tracks, to be
worked by the force or power of steam, electricity,
or of the atmosphere, or by mechanical power, or
any combination of them;

buildings,
equipment,
etc.;

- (g) construct, erect, and maintain all necessary and
convenient roads, buildings, stations, depots, wharfs,
docks, elevators, and other structures, and construct,
purchase and acquire stationary or locomotive
engines, rolling stock, and other apparatus necessary
for the accommodation and use of the traffic and
business of the railway;

branch
railways;

- (h) make branch railways, and manage the same, and
for that purpose exercise all the powers, privileges
and authority necessary therefor in as full and ample
a manner as for the railway;

transport
passengers
and freight;

- (i) take, transport, carry and convey persons and goods
on the railway, and regulate the time and manner
in which the same shall be transported and the tolls
to be charged therefor;

remove
trees;

- (j) fell or remove any trees which stand within one
hundred feet from either side of the right-of-way of
the railway, or which are liable to fall across any
railway track;

make
tunnels
and other
works;

- (k) make or construct in, upon, across, under or over
any railway, tramway, river, stream, watercourse,
canal, or highway, which the railway intersects or
touches, temporary or permanent inclined planes,
tunnels, embankments, aqueducts, bridges, roads,
ways, passages, conduits, drains, piers, arches,
cuttings and fences;

divert
highways
and water-
ways;

- (l) divert or alter, as well temporarily as permanently,
the course of any such river, stream, watercourse,
or highway, or raise or sink the level thereof, in
order the more conveniently to carry the same over,
under or by the side of the railway;

construct
drains;

- (m) make drains or conduits into, through or under any
land adjoining the railway, for the purpose of con-
veying water from or to the railway;

divert
drains, pipes
and wires;

- (n) with the consent of the Board, after notice to any
person interested, divert or alter the position of any
water-pipe, gas-pipe, sewer, or drain, or any tele-
graph, telephone or electric lines, wires or poles;

alter and
substitute
other works;

- (o) with the consent of the Board, after notice to any
person interested, from time to time alter, repair

or discontinue the works hereinbefore mentioned, or any of them, and substitute others in their stead; and

- (p) do all other acts necessary for the construction, ^{other necessary acts.} maintenance and operation of the railway. R.S.O. 1937, c. 259, s. 53.

Navigable Waters

54. No company shall cause any obstruction in, or impede ^{Duty not to obstruct navigation.} the free navigation of any river, water, stream or canal, to, upon, along, over, under, through or across which its railway is carried. R.S.O. 1937, c. 259, s. 54.

55. No company shall run its trains over any canal or ^{Flooring of bridges.} over any navigable water without having first laid, and without maintaining, such proper flooring under and on both sides of its railway track over such canal or water as is deemed by the Board sufficient to prevent anything falling from the railway into such canal or water, or upon the boats, vessels, craft, or persons navigating such canal or water. R.S.O. 1937, c. 259, s. 55.

Compensation

56. The provisions for the ascertainment of compensation ^{Application of s. 53 (e).} contained in clause e of section 53 shall not extend or apply to any railway incorporated under an Act of the Legislature when it is proposed that such railway shall cross, intersect, join, or unite with, or be crossed, intersected, joined or united with a railway within the legislative authority of the Parliament of Canada. R.S.O. 1937, c. 259, s. 56.

57. The company shall restore as nearly as possible to its ^{Duty of restoration.} former state any river, stream, watercourse, highway, water-pipe, gas-pipe, sewer or drain, or any telegraph, telephone or electric line, wire or pole, which it diverts or alters, or it shall put the same in such a state as not materially to impair the usefulness thereof. R.S.O. 1937, c. 259, s. 57.

58. The company shall in the exercise of the powers by ^{Compensation for damage.} this or the special Act granted, do as little damage as possible, and shall make full compensation, in the manner herein and in the special Act provided, to all persons interested for all damage by them sustained by reason of the exercise of such powers. R.S.O. 1937, c. 259, s. 58.

Taking or using Land of Other Companies

59.—(1) The company may take possession of, use or ^{Use of land of other companies.} occupy any land belonging to any other railway company, use and enjoy the whole or any portion of the right-of-way,

tracks, terminals, stations or station grounds of any other railway company, and have and exercise full right and power to run and operate its trains over and upon any portion of the railway of any other railway company, subject always to the approval of the Board first obtained and to any order and direction which the Board may make in regard to the exercise, enjoyment or restriction of such powers or privileges.

Approval
of Board.

Procedure.

(2) Such approval may be given upon application and notice, and, after hearing, the Board may make such order, give such directions, and impose such conditions or duties upon either party as to it may appear just or desirable, having due regard to the public and all proper interests.

Compensation.

(3) If the companies fail to agree as to the compensation the Board may, by order, fix the amount of the compensation to be paid in respect of the powers and privileges so granted. R.S.O. 1937, c. 259, s. 59.

Public Land

When and
how far
public lands,
beaches, etc.,
may be
occupied.

60.—(1) The company shall not take possession of, use or occupy any land belonging to Ontario without the consent of the Lieutenant-Governor in Council; but with such consent the company may take and appropriate for the use of its railway and works, but not alienate, so much of the wild lands lying on the route of the railway as have not been granted or sold, and as may be necessary for the railway, as also so much of the public beach or of the land covered with the waters of any lake, river, stream or canal, or of their respective beds, as is necessary for making and completing and using its railway and works.

Limitation.

(2) The extent of the public beach or of the land covered with the water of any river or lake taken for the railway shall not exceed the quantity limited in section 80. R.S.O. 1937, c. 259, s. 60.

Telegraph, Telephone and Other Lines

Power to
erect tele-
graph and
telephone
lines.

61.—(1) Except as provided in section 62 the company may construct and operate an electric telegraph line and a telephone line throughout and along the whole line of railway, and the branches thereof, or any part of the railway or branches, and for the purpose of constructing, working and protecting such telegraph and telephone lines, the powers conferred upon telegraph companies by *The Telegraph Act* are hereby conferred upon the company; but no poles shall be erected in the construction of such lines in or through any city, town or village except under an agreement with the corporation of the city, town or village, or in default of such

Rev. Stat.,
c. 386.

agreement by leave of the Board and upon such terms and conditions as it may prescribe.

(2) Such telegraph and telephone lines shall be used exclusively for the purposes of the business of the company. Use of lines.

(3) Where any municipal corporation or person has authority to construct, operate and maintain a telephone system in any locality, and is desirous of obtaining connection or communication with or within any station or premises of the company in such locality, and cannot agree with the company with respect thereto, such municipal corporation or person may apply to the Board, and the Board may order the company to provide for such connection or communication upon such terms as to compensation as the Board deems just, and the Board may order and direct how, when, where, by whom and upon what terms and conditions such connection or communication shall be constructed, operated and maintained. Other telephone systems, connections with.

(4) Notwithstanding anything in any Act, the Board, in determining the terms or compensation upon which any such connection or communication is to be provided for, shall not take into consideration any contract, lease or agreement by which the company gives any exclusive or other privilege to any company or person, other than the applicant, with respect to any such station or premises. R.S.O. 1937, c. 259, s. 61. Contracts giving exclusive privileges not to be taken into consideration.

62.—(1) No lines or wires for telegraphs, telephones or the conveyance of light, heat, power or electricity, shall be erected, placed or maintained across a railway without the leave of the Board. Wires, etc., across railway.

(2) Upon an application for such leave the applicant shall submit to the Board a plan and profile of the part of the railway proposed to be affected, showing the proposed location of such lines and wires and the works contemplated in connection therewith. Submission of plans to Board.

(3) The Board may grant the application and may order by whom, how, when, and on what terms and conditions, and under what supervision, the work shall be executed. Order by Board.

(4) Upon such order being made the lines and wires may be erected, placed and maintained across the railway subject to and in accordance with the order. Erecting.

(5) An order of the Board shall not be required in cases in which wires or other conductors for the transmission of electrical energy are to be erected or maintained over or under a railway, or over or under wires or other conductors for the transmission of electrical energy, with the consent of the railway company or the company owning or controlling the last- Order dispensed with where compliance with general regulations.

mentioned wires or conductors, in accordance with any general regulations, plans or specifications adopted or approved by the Board. R.S.O. 1937, c. 259, s. 62.

General
rules and
regulations
of Board.

63. The Board shall prescribe rules and regulations and standard plans and specifications to be adhered to in carrying lines of wires to be used for telephone and telegraph purposes across the railway, and no such lines shall thereafter be carried across the railway in any other way or on any other terms without the leave of the Board, but in special cases, on the application of any person or corporation to be affected by such crossing, the Board may order that the crossing shall be made in some other manner than that prescribed by the standard plans and specifications. R.S.O. 1937, c. 259, s. 63.

Interchange of Traffic

One com-
pany may
agree with
another
respecting
traffic.

64.—(1) The directors may at any time and from time to time make and enter into any agreement or arrangement, not inconsistent with this or the special Act, with any other company for the interchange of traffic between their railways or vessels and for the division and apportionment of tolls in respect of such traffic.

Agreements
for,

(2) The directors may also make and enter into any agreement or arrangement, not inconsistent with this or the special Act, for any term not exceeding twenty-one years,

running
powers;

(a) for the running of the trains of one company over the tracks of another company;

division of
tolls;

(b) for the division and apportionment of tolls in respect of such traffic;

manage-
ment and
working;

(c) generally in relation to the management and working of the railways, or any of them, or any part thereof, and of any railway or railways in connection therewith; and

joint
committee.

(d) providing, either by proxy or otherwise, for the appointment of a joint committee for the better carrying into effect of any such agreement or arrangement, with such powers and functions as are considered necessary or expedient,

subject to the like consent of the shareholders, the sanction of the Board, application, notices and filing, as hereinafter provided with respect to amalgamation agreements, except that publication of notices in *The Ontario Gazette* shall be sufficient notice.

Board may
exempt
from
conditions.

(3) The Board may, notwithstanding anything in this section, by order or regulation, exempt the company from complying with any of the foregoing conditions with respect

to any such agreement or arrangement made or entered into by the company for the transaction of its usual and ordinary business.

(4) Neither the making of any such agreement or arrangement, nor anything therein contained, nor any approval thereof, shall restrict, limit, or affect any power by this Act vested in the Board or relieve the companies from complying with this Act. Saving.

(5) If any officer, servant or agent of a railway company, having the superintendence of the traffic at any station or depot thereof, refuses or neglects to receive, convey or deliver at any station or depot of the company for which they may be destined any passenger, goods or things, brought, conveyed or delivered to him or to such company for conveyance over or along the railway from that of any other company intersecting or coming near to the first-mentioned railway, or in any way wilfully contravenes subsection 4, the first-mentioned railway company or such officer, servant or agent, personally, shall, for every such neglect or refusal, incur a penalty of not more than \$50 and in addition shall be liable to the person aggrieved for the actual damages sustained by reason of such wrongful act. Penalty on companies or their officers refusing or neglecting to forward traffic.

(6) In case any company or municipality interested is unable to agree as to the regulation and interchange of traffic or in respect of any other matter in this section provided for, the same shall be determined by the Board. Board to determine.

(7) All complaints made under this section shall be heard and determined by the Board. Complaints.

(8) This section shall apply to such street railways as may from time to time be determined by the Board. R.S.O. 1937, c. 259, s. 64. Street railways.

Amalgamation Agreements

65.—(1) Where the company is authorized by the special Act to enter into an agreement with any other company for selling, conveying or leasing to such company the railway and undertaking of the company, in whole or in part, or for purchasing or leasing from the company its railway and undertaking, in whole or in part, or for amalgamation, the agreement shall be first approved by two-thirds of the votes of the shareholders of each company, party thereto, at any annual meeting, or at a special meeting, of each company called for the purpose of considering the agreement, at each of which meetings shareholders representing at least two-thirds in value of the capital stock of each company are present or represented by proxy. Agreement for sale, lease or amalgamation of railway.

Sanction
of Board.

(2) Upon the agreement being approved and duly executed it shall be submitted to the Board for its sanction.

Publishing
notice of
application.

(3) Notice of the proposed application for such sanction shall be published in *The Ontario Gazette* for at least one month prior to the time, to be stated therein, for the making of such application, and also, unless the Board otherwise orders, for a like period in one newspaper in each of the counties or districts through which the railway to be sold, leased or amalgamated runs in which a newspaper is published.

Action of
Board.

(4) Upon such notice being given the Board shall grant or refuse the application, and upon the agreement being sanctioned it shall be filed in the office of the Board and thereupon shall come into force and effect, and notice thereof shall be forthwith given in *The Ontario Gazette*.

Evidence of
compliance
with re-
quirements.

(5) The production of *The Ontario Gazette* containing such notice shall be *prima facie* evidence that this section has been complied with. R.S.O. 1937, c. 259, s. 65.

Effect of
amalgama-
tion upon
properties,
powers and
liabilities.

66. Upon any agreement for amalgamation coming into effect, as provided in section 65, the companies, parties to such agreement, shall, subject to this Act and the special Act authorizing such agreement to be entered into, be deemed to be amalgamated, and shall form one company under the name and upon the terms and conditions in such agreement provided, and the amalgamated company shall possess and be vested with all the railways and undertakings, and all other the powers, rights, privileges, franchises, assets, effects, and properties belonging to, possessed by, or vested in the companies, parties to such agreement, or to which they, or any or either of them may be or become entitled, and shall be liable for all claims, demands, rights, securities, causes of action, complaints, debts, obligations, works, contracts, agreements, or duties, to as full an extent as any or either of such companies was at or before the time when the amalgamation agreement came into effect. R.S.O. 1937, c. 259, s. 66.

Saving of
rights and
claims.

67.—(1) Notwithstanding anything in any agreement made or sanctioned under sections 65 and 66, every act, matter or thing done, effected or confirmed under or by virtue of this Act or the special Act, before the date of the coming into effect of such agreement, shall be as valid as if it had never come into effect, and such agreement shall be subject and without prejudice to every such act, matter or thing, and to all rights, liabilities, claims and demands, present or future, which would be incident to or consequent upon such act, matter or thing if such agreement had never come into effect,

(2) In the case of an agreement for amalgamation, as to all acts, matters and things so done, effected or confirmed, and as to all such rights, liabilities, claims and demands, the amalgamated company shall for all purposes stand in the place of and represent the companies who are parties thereto, and the generality of this section shall not be deemed to be restricted by any special Act, unless this section is expressly referred to in it and expressly limited or restricted thereby. R.S.O. 1937, c. 259, s. 67.

Representa-
tion of
former
companies.

PLANS AND SURVEYS

68.—(1) The company shall prepare and submit to the Board a map showing the general location of the proposed line of the railway, the terminals and the principal towns and places through which the railway is to pass, giving the names thereof, the railways, navigable streams and tidewaters, if any, to be crossed by the railway, and such as may be within a radius of thirty miles of the proposed railway, and, generally, the physical features of the country through which the railway is to be constructed, and shall give such further or other information as the Board may require.

Map of
general
location
proposed.

(2) The map shall be prepared upon a scale of not less than six miles to the inch, or upon such other appropriate scale as the Board may determine, and shall be accompanied by an application, stating the special Act authorizing the construction of such railway, and requesting the Board's approval of the general location as shown on the map.

Scale.

(3) Before approving the map and location the Board may, subject to the special Act, make such changes and alterations therein as it may deem expedient, and, upon being satisfied therewith, shall signify its approval upon the map.

Approval.

(4) The map when so approved and the application shall be filed with the Board.

Filing.

(5) The Board in approving of any such map and location may approve the whole or any portion thereof, and where it approves only a portion thereof it shall signify its approval upon the map accordingly.

Board may
approve
whole or
portion.

(6) This section shall apply only to the main line, and to branch lines over six miles in length. R.S.O. 1937, c. 259, s. 68.

Application
of section.

69.—(1) Upon compliance with section 68 the company shall make a plan, profile and book of reference of the railway.

Plan, profile
and book of
reference.

(2) The plan shall show,

Plan.

(a) the right-of-way, with lengths of sections in miles;

(b) the names of terminal points;

- (c) the station grounds;
- (d) the property lines and owners' names;
- (e) the areas and length and width of land proposed to be taken, in figures, stating every change of width;
- (f) the bearings; and
- (g) all open drains, watercourses, highways and railways proposed to be crossed or affected.

Profile.

(3) The profile shall show the grades, curves, highway and railway crossings, open drains and watercourses.

Book of reference.

(4) The book of reference shall describe the portion of land proposed to be taken in each lot to be traversed, giving numbers of the lots, and the area, length and width of the portion of each lot proposed to be taken, and the names of the owners and occupiers so far as they can be ascertained.

Further information.

(5) The Board may require any additional information for the proper understanding of the plan and profile.

Sections.

(6) The plan, profile and book of reference may be of a section or sections of the railway. R.S.O. 1937, c. 259, s. 69.

Sanction by Board.

70.—(1) Such plan, profile and book of reference shall be submitted to the Board which, if satisfied therewith, may sanction the same.

Effect.

(2) The Board by such sanction shall be deemed to have approved merely the location of the railway and the grades and curves thereof as shown in the plan, profile and book of reference, but not to have relieved the company from otherwise complying with this Act.

Board may sanction deviation.

(3) The Board may sanction a deviation of not more than one mile from any one point on the general location approved under section 68.

Further information.

(4) Before sanctioning any plan, profile or book of reference of a section of a railway the Board may require the company to submit the plan, profile and book of reference of the whole, or of any portion of the remainder of the railway, or such further or other information as the Board may deem expedient.

Time for acquiring land.

(5) In granting any such sanction the Board may fix a period within which the company shall acquire the land included in its right-of-way or take the necessary steps for such purpose, or within which the notices mentioned in section 89 shall be deemed conclusively to have been given, and if the order granting such sanction provides no such time limit, any

owner or person interested in land included in the right-of-way, as shown by the plan, may apply to the Board for an order that the company shall acquire such lands or take the necessary steps for such purposes, within such time as the Board deems proper, and thereupon the Board may make such order in the premises as appears just. R.S.O. 1937, c. 259, s. 70.

71.—(1) The plan, profile and book of reference, when so sanctioned, shall be deposited with the Board, and plans shall be numbered consecutively in the order of their deposit. ^{Deposit with Board.}

(2) The company shall also deposit copies thereof, or of such parts thereof as relate to each county of district through which the railway is to pass, duly certified as copies by the secretary, in the offices of the registrars of deeds for such counties or districts. R.S.O. 1937, c. 259, s. 71. ^{In registry offices.}

72. The railway may be made, carried or placed across or upon the land of any person on the located line, although through error or any other cause the name of such person has not been entered in the book of reference, or although some other person is erroneously mentioned as the owner of or entitled to convey, or is interested in such land. R.S.O. 1937, c. 259, s. 72. ^{Errors.}

73.—(1) Where any omission, misstatement or error is made in any plan, profile or book of reference so registered the company may apply to the Board for a certificate to correct the same. ^{Corrections.}

(2) The Board may require notice to be given to parties interested, and, if it appears to the Board that the omission, misstatement or error arose from mistake, may grant a certificate setting forth the nature of the omission, misstatement or error, and the correction allowed. ^{Certificate of correction.}

(3) Upon the deposit of the certificate with the Board, and of copies thereof, certified as such by the secretary, with the registrars of deeds of the counties or districts in which the lands are situate, the plan, profile or book of reference shall be taken to be corrected in accordance therewith, and the company may thereupon, subject to this Act, construct the railway in accordance with such correction. R.S.O. 1937, c. 259, s. 73. ^{Deposit of certificate of correction.}

74.—(1) Every registrar of deeds shall receive and preserve in his office all plans, profiles, books of reference, certified copies thereof, and other documents required by this Act to be deposited with him, and shall endorse thereon the day, hour and minute when the same were deposited. ^{Duties of registrars of deeds.}

Extracts
and copies.

(2) All persons may resort to such plans, profiles, books of reference, copies and documents so deposited, and may make extracts therefrom and copies thereof as occasion requires, paying the registrar therefor at the rate of ten cents for each hundred words so copied or extracted and ten cents for each copy made of any plan or profile.

Certified
copies.

(3) The registrar shall, at the request of any person, certify copies of any such plan, profile, book of reference, or document so deposited in his office, or of such portions thereof as may be required, on being paid therefor at the rate of ten cents for each hundred words copied, and such additional sum for any copy of plan or profile furnished by him as is reasonable and customary in like cases, together with fifty cents for each certificate given by him.

Certificate
of registrar.

(4) Such certificate shall set forth that the plan, profile or document, a copy of which, or of any portion of which, is certified by him, is deposited in his office, and shall state the time when it was so deposited, and that he has carefully compared the copy certified with the document on file, and that the same is a true copy of the original.

Documents
deposited
with
registrar of
deeds to be
prima facie
evidence.

(5) A copy of any plan, profile, book of reference, certified copy thereof, or other document, relating to the location or construction of any railway, and deposited under this Act, with the registrar of deeds of any district or county through which the railway passes, certified by such registrar in the manner hereinafter required to be a true copy, shall be *prima facie* evidence of the original so deposited, that such original was so deposited at the time certified thereon, and that the same was signed, certified, attested or otherwise executed by the persons by whom and in the manner in which such original purports to be signed, certified, attested or executed, as shown or appearing by such certified copy, and, in the case of a plan, that such plan is prepared according to a scale and in manner and form sanctioned by the Board. R.S.O. 1937, c. 259, s. 74.

Filing plan
and profile of
completed
line with
Board.

75.—(1) A plan and profile of the completed railway, or of any part thereof, which is completed and in operation, and of the land taken or obtained for the use thereof, shall, within six months after completion of the undertaking, or within six months after beginning to operate any such completed part, as the case may be, or within such extended or renewed period as the Board at any time directs, be made and filed with the Board.

In registry
offices.

(2) Plans of the parts of such railway so completed or in operation located in different districts and counties, prepared on such a scale and in such manner and form, and signed or authenticated in such manner as the Board may from time to

time by general regulation or in any particular case sanction or require, shall be filed in the registry offices for the counties or districts in which such parts are respectively situate. R.S.O. 1937, c. 259, s. 75.

76.—(1) All plans and profiles required by law to be deposited by the company with the Board shall be drawn to such scale, with such detail, upon such materials, and shall be of such character as the Board may either by general regulation or in any particular case, sanction or require. Plans and profiles, how prepared.

(2) All such plans and profiles shall be certified and signed by the president or vice-president or general manager and also by the engineer of the company. Certification.

(3) Any book of reference required to be so deposited shall be prepared to the satisfaction of the Board. Book of reference.

(4) Unless and until the plan, profile and book of reference are made satisfactory to the Board, the Board may refuse to sanction the same, or to allow the same to be deposited with the Board. R.S.O. 1937, c. 259, s. 76. Board may refuse sanction;

77. In addition to such plans, profiles and books of reference the company shall, with all reasonable expedition, prepare and deposit with the Board any other or further plans, profiles, or books of reference of any portion of the railway, or of any siding, station or works thereof, which the Board may from time to time order or require. R.S.O. 1937, c. 259, s. 77. Further plans as Board requires.

78.—(1) If any deviation, change or alteration is required by the company to be made in the railway, or any portion thereof, as already constructed or as merely located and sanctioned, a plan, profile and book of reference of the portion of the railway proposed to be changed, showing the deviation, change or alteration proposed to be made, shall, in like manner as hereinbefore provided with respect to the original plan, profile and book of reference, be submitted for the approval of the Board, and may be sanctioned by the Board. Deviations, changes or alterations;

(2) The plan, profile and book of reference of the portion of the railway proposed to be changed shall, when sanctioned, be deposited and dealt with as hereinbefore provided with respect to the original plan, profile and book of reference. Deposit;

(3) The company may thereupon make such deviation, change, or alteration, and all the provisions of this Act shall apply to the portion of such line of railway at any time changed or proposed to be changed in the same manner as they apply to the original line. Company may carry out changes.

Board may
dispense with
submission
of material.

(4) The Board may, either by general regulation or in any particular case, exempt the company from submitting the plan, profile and book of reference, as in this section provided, where the deviation, change, or alteration, is made or to be made for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting the railway, or for any other purpose of public advantage as may seem to the Board expedient, if the deviation, change, or alteration does not exceed three hundred feet from the centre line of the railway located or constructed in accordance with the plans, profiles and books of reference deposited with the Board under this Act.

Terminals to
be observed.

(5) Nothing in this section shall be taken to authorize any extension of the railway beyond the terminals mentioned in the special Act. R.S.O. 1937, c. 259, s. 78.

Commence-
ment of
works.

79.—(1) The company shall not commence the construction of the railway or any section or portion thereof until the plan, profile and book of reference has been submitted to and sanctioned by the Board as hereinbefore provided, nor until the plan, profile and book of reference so sanctioned have been deposited with the Board and duly certified copies thereof have been deposited with the registrars of deeds in accordance with this Act.

Changes:

(2) The company shall not make any change, alteration or deviation in the railway or any portion thereof, until section 78 has been fully complied with. R.S.O. 1937, c. 259, s. 79.

ACQUISITION OF LAND

Quantity Allowed without Consent of Owners

Extent of
land which
may be
taken,
for right
of way;

80. The land which may be taken without the consent of the owner shall not exceed,

(a) for the right-of-way, one hundred feet in breadth, except in places where the rail level is or is proposed to be more than five feet above or below the surface of the adjacent land, when such additional width may be taken as will suffice to accommodate the slope and side ditches;

for stations,
etc.

(b) for stations, depots and yards, with the freight sheds, warehouses, wharfs, elevators and other structures for the accommodation of traffic incidental thereto, one mile in length by five hundred feet in breadth, including the width of the right-of-way. R.S.O. 1937, c. 259, s. 80.

Conveyances by Fiduciary Owners

Who may
convey lands.

81.—(1) All tenants in tail or for life, guardians, committees of mentally incompetent persons, or curators, executors,

administrators, trustees and all other persons whomsoever as well for and on behalf of themselves, their heirs and successors, as also for and on behalf of those whom they represent, whether infants, issue unborn, mentally incompetent persons, mentally defective persons, or other persons seised, possessed of or interested in any land, may contract for, sell and convey to the company all or any part thereof.

(2) When such persons have no right in law to sell or convey the rights of property in the land, they may obtain from a judge, after due notice to the persons interested, the right to sell the land. Order of judge may be had.

(3) The judge shall make such orders as are necessary to secure the investment of the purchase money in such a manner as he deems proper to secure the interests of the owner of the land. Purchase money.

- (4) The powers, by subsections 1 and 2 conferred upon, Limitation of powers to convey.
- (a) rectors in possession of glebe lands;
 - (b) ecclesiastical and other corporations;
 - (c) trustees of land for church or school purposes;
 - (d) executors appointed by wills under which they are not invested with any power over the real property of the testator; and
 - (e) administrators of persons dying intestate, but at their death seise of real property,

shall only extend and be exercised with respect to any land actually required for the use and occupation of the company.
R.S.O. 1937, c. 259, s. 81.

82.—(1) Any contract, agreement, sale, conveyance or assurance made under section 81 shall be valid and effectual in law to all intents and purposes whatsoever, and any conveyance so authorized shall vest in the company receiving the same, the fee simple in the land therein described, freed and discharged from all trusts, restrictions and limitations whatsoever. Or Effect of sale under section 81.

(2) The person so conveying is hereby relieved from liability for what he does by virtue of or in pursuance of this Act. Exoneration.
R.S.O. 1937, c. 259, s. 82.

83. The company shall not be responsible for the disposition of any purchase money for land taken by it for its purposes if paid to the owner of the land or into court for his benefit. Disposition of purchase money.
R.S.O. 1937, c. 259, s. 83.

Effect of contracts made before deposit of map.

84.—(1) Any contract or agreement made by any person authorized by this Act to convey land either before the deposit of the plan, profile and book of reference, or before the setting out and ascertaining of the land required for the railway, shall, if duly registered in the proper registry office, be binding at the price agreed upon if the land is afterwards set out and ascertained within one year from the date of the contract or agreement.

Possession and purchase money.

(2) Possession of the land may be taken, and the purchase money may be dealt with, as if it had been fixed by an award of arbitrators as hereinafter provided, and the contract or agreement shall be in the place of an award. R.S.O. 1937, c. 259, s. 84.

Rental when parties cannot sell.

85.—(1) If, in any case not hereinbefore provided for, any person interested in any land so set out and ascertained is not authorized by law to sell or alienate the same he may agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid therefor.

How fixed.

(2) If the amount of the rent is not fixed by agreement it shall be fixed and all proceedings shall be regulated in the manner herein prescribed.

How charged in railway accounts.

(3) Such annual rent and every other annual rent agreed upon or ascertained and to be paid for the purchase of any land, or any part of the purchase money of any land which the vendor agrees to leave unpaid shall, upon the deed creating such charge or liability being duly registered in the registry office of the proper county, district or registration division, be chargeable as part of the working expenditure of the railway. R.S.O. 1937, c. 259, s. 85.

Purchase of Additional Land

When more ample space required.

86.—(1) If the company requires, at any point on the railway, more ample space than it possesses or may take under section 80, for the convenient accommodation of the public, for the traffic on its railway, for protection against snow-drifts, for the diversion of a highway, for the substitution of one highway for another, or for the construction or taking of any works or measures ordered by the Board under any of the provisions of this Act or the special Act, or to secure the efficient construction, maintenance or operation of the railway, it may apply to the Board for authority to take the same for such purposes without the consent of the owner.

Procedure.

(2) The company shall give ten days' notice of the application to the owner or possessor of the land, and shall, upon the

application, furnish to the Board copies of such notices with affidavits of the service thereof.

(3) The company, upon the application, shall also furnish Material upon application. to the Board in duplicate,

(a) a plan, profile and book of reference of the portion of the railway affected, showing the additional land required, and certified as hereinbefore provided with respect to plans and profiles required to be deposited by the company with the Board;

(b) an application in writing for authority to take the Particulars to be specified. land, signed and sworn to by the president, vice-president, general manager or engineer of the company, referring to the plan, profile and book of reference, specifying definitely and in detail the purposes for which each portion of the land is required, and the necessity for the same, and showing that no other land suitable for such purposes can be acquired at such place on reasonable terms and with less injury to private rights.

(4) After the time stated in such notices, and the hearing Authority from Board. of such interested parties as may appear, the Board may, in its discretion and upon such terms and conditions as it deems expedient, authorize in writing the taking for such purposes of the whole or any portion of the land applied for.

(5) Such authority shall be executed in duplicate, and one Deposit with Board. of the duplicates shall be filed, with the plan, profile, book of reference, application and notices, with the Board, and the other, with the duplicate plan, profile, book of reference, and application, shall be delivered to the company.

(6) Such duplicate authority, plan, profile, book of reference and application, or copies thereof certified as such by the In registry offices. secretary, shall be deposited with the registrars of deeds of the counties or districts, respectively, in which the lands are situate.

(7) All the provisions of this Act applicable to the taking Provisions of this Act which apply. of lands without the consent of the owner for the right of way or main line of the railway shall apply to the land authorized to be taken under this section, except the provisions relating to the sanction by the Board of the plan, profile and book of reference of the railway, and the deposit thereof, when so sanctioned, with the Board and with registrars of deeds. R.S.O. 1937, c. 259, s. 86.

Negotiations with Owner for Compensation and Damages

After notice
of deposit of
map, etc.,
application
to the owner
of lands.

87.—(1) After the expiration of ten days from the deposit of the plan, profile and book of reference in the office of the registrar of deeds, and after notice thereof in at least one newspaper, if there is any, published in each of the counties through which the railway is intended to pass, application may be made to the owners of lands or to persons empowered to convey land or interested in land which may be taken or which may suffer damage from the taking of materials or the exercise of any of the powers granted for the railway, and thereupon such agreements and contracts as seem expedient to both parties may be made with such persons touching the land, or the compensation to be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained, as may seem expedient to both parties.

Settlement
of questions.

(2) In case of disagreement between the parties or any of them all questions which arise shall be settled as hereinafter provided. R.S.O. 1937, c. 259, s. 87.

Effect of Depositing Plan

Deposit,
etc., to be
general
notice.

88.—(1) The deposit of a plan, profile and book of reference, and the notice of the deposit, shall be deemed a general notice to all persons of the land which will be required for the railway and works.

Effect on
question of
damages.

(2) The date of the deposit shall be the date with reference to which such compensation or damages shall be ascertained; but if the company does not actually acquire the land within one year from the date of the deposit then the date of the acquisition shall be the date with reference to which such compensation or damages shall be ascertained. R.S.O. 1937, c. 259, s. 88.

Notice to Owner

Notice to
opposite
party.

89.—(1) A notice shall be served upon the owner which shall contain,

- (a) a description of the land to be taken, or of the powers intended to be exercised with regard to any land therein described;
- (b) a declaration of readiness to pay a certain sum or rent, as the case may be, as compensation for such land or for such damages; and
- (c) the name of a person to be appointed as the arbitrator of the company if the offer is not accepted.

Certificate
of O.L.S. to
accompany
notice.

(2) The notice shall be accompanied by the certificate of an Ontario land surveyor not interested in the matter and not being the arbitrator named in the notice,

- (a) that the land, if the notice relates to the taking of land, shown on the plan, is required for the railway, or is within the limit of deviation allowed by this Act;
- (b) that he knows the land, or the amount of damage likely to arise from the exercise of the powers; and
- (c) that the sum so offered is, in his opinion, a fair compensation for the land, and for the damages.

(3) If the owner is absent from the county or district in which the land lies, or is unknown, then upon application to a judge of the county or district court of the county or district in which the land lies, accompanied by such certificate, and by an affidavit of some officer of the company that such owner is so absent, or that, after diligent inquiry, the owner on whom the notice ought to be served cannot be ascertained, the judge shall order the notice, but without such certificate, to be published three times in the course of one month in some newspaper published in the county or district.

(4) Where the judge is interested in the land, a judge of the Supreme Court may, on application of the company, exercise all the powers given by this section to a judge of a county or district court.

Arbitration

(5) If, within ten days after the service of the notice or within one month after the first publication thereof, the person served does not notify the company of his acceptance of the sum offered by it, or notify it of the name of a person whom he appoints as arbitrator, the judge shall, on the application of the company, six days' notice of which shall be given to the owner, appoint a person to be sole arbitrator for determining the compensation or damages to be paid.

(6) The judge shall, at the request of either party on such application, appoint three arbitrators to determine the compensation or damages, one of whom may be named by each party.

(7) If the owner within the time mentioned in subsection 5 notifies the company of the name of his arbitrator, the two arbitrators shall jointly appoint a third, or if they cannot agree upon a third, the judge shall, on the application of the owner or of the company, previous notice of at least one clear day having been given to the other party, appoint a third arbitrator.

(8) If land has been entered on and taken by the company, with or without the licence of the person in possession thereof

If the owner is absent or unknown.

Provision when the county judge is interested.

Failure to accept the company's offer, or appoint arbitrator.

Appointment by judge of three arbitrators.

Appointment of arbitrator by opposite party.

Proceedings to determine compensation.

and without any agreement as to the compensation to be paid therefor, or if the land, though not taken is injuriously affected by or through the construction of the railway, the owner or any person interested in the land may commence proceedings to ascertain the compensation to which he is entitled in respect of the land so taken or injuriously affected, by giving to the company notice in writing of the name of a person to be appointed as his arbitrator, the description of the land taken or injuriously affected, and the amount of compensation or damages claimed, and thereupon like proceedings shall be taken to ascertain the compensation or damages as are prescribed where the company commences proceedings.

Stating
amount
found
payable in
award.

(9) The arbitrators, besides awarding to the owner the amount which they find to be the value of the land, shall state what they find to be the total amount to be paid to compensate the owner, or for damages.

Duties of
arbitrators.

(10) The arbitrators, or any two of them, or the sole arbitrator, being sworn before a commissioner for taking affidavits, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation in such a way as they, or he, or a majority of them, deem best, and the majority of the arbitrators, at the first meeting after their appointment, or the sole arbitrator, shall fix a day on or before which the award shall be made, and may from time to time, with the consent of all parties, but not otherwise, extend such time; but no award shall be made or any official act done by the majority, except at a meeting held at a time and place of which the other arbitrator has had at least one clear day's notice, or to which some meeting at which the third arbitrator was present had been adjourned, and no notice to either of the parties shall be necessary, but each party shall be held sufficiently notified through the arbitrator appointed by him, or whose appointment he required.

Notes of
evidence.

(11) The arbitrators or the sole arbitrator shall take down in writing the evidence brought before them or him, unless either party requires that it be taken by a stenographer, in which case a stenographer shall be named by the arbitrators or arbitrator, unless the parties agree upon one.

Stenog-
rapher.

(12) The stenographer shall be sworn before the arbitrators, or before any one of them, before entering upon his duties.

His
expenses.

(13) The expense of the stenographer, if not determined by agreement between the parties, shall be taxed by the court or a judge thereof, and shall, in any case, form part of the costs of the arbitration.

All papers
except award
to be filed
in court.

(14) After making the award the arbitrators, or the sole arbitrator, shall forthwith deliver or transmit by registered

letter, at the request of either party in writing, the depositions, together with the exhibits referred to therein, and all papers connected with the reference except the award, to the office of the Registrar of the Supreme Court at Osgoode Hall.

(15) If an arbitrator dies before the award is made, or is disqualified, or refuses or fails to act within a reasonable time, another arbitrator may be appointed in his stead. Death of arbitrator or failure to act.

(16) If such arbitrator was appointed by one of the parties, or by the judge on his nomination, he shall have the right to appoint the arbitrator in his stead. Appointment of successor.

(17) If such arbitrator was appointed by the judge, the arbitrator in his stead may be appointed by the judge, on the application of either party, on six days' notice to the other. Idem.

(18) If such arbitrator was appointed by the two arbitrators appointed by the parties, the arbitrator in his stead may be appointed by the remaining arbitrators. Idem.

(19) In a case not provided for by the foregoing provisions, the arbitrator may be appointed by the judge, on the application of either party, on six days' notice to the other. Idem.

(20) It shall not be necessary in any such case that the proceedings shall be recommenced or repeated. Proceedings may continue.

(21) Where the notice given improperly describes the lands or materials intended to be taken, or where the company decides not to take the lands or materials mentioned in the notice, it may abandon the notice and all proceedings thereunder, but shall be liable to the person notified for all damages or costs incurred by him in consequence of the notice and abandonment, which costs shall be taxed in the same manner as costs after an award. Abandonment of proceedings.

(22) The company may, notwithstanding the abandonment of any former notice, give to the same or any other person notice for other lands or materials, or for lands or materials otherwise described. New notice after abandonment.

(23) No award shall be invalidated by reason of any want of form or other technical objection, if the requirements of this Act have been substantially complied with, and if the award states clearly the sum awarded, and the land or other property, right or privilege for which such sum is to be the compensation, nor shall it be necessary that the person to whom the sum is to be paid be named in the award. Awards not voided for want of form.

(24) Any party to the arbitration may, within one month after receiving a written notice from the arbitrators of the making of the award, appeal therefrom upon any question of law or fact to the Supreme Court, and upon the hearing of Appeal to Supreme Court from award.

the appeal the court shall decide any question of fact upon the evidence taken before the arbitrators as in a case of original jurisdiction.

Procedure
on appeal.

(25) Upon such appeal the practice and proceedings shall be as nearly as may be the same as upon an appeal from an award under *The Arbitration Act*, subject to any rules of court made under that Act or under *The Judicature Act*.

Rev. Stat.,
cc. 20, 190.

Existing
practice
not affected.

(26) The right of appeal hereby given shall not affect the existing law or practice as to setting aside such awards.

Company
taking
possession
to take up
award on
notice.

(27) Where the company has taken possession of the land prior to the making of the award it shall, within seven days after receiving a written notice from the arbitrators of the making of the award, take up the same and deliver to the owner a copy thereof.

Possession
may be
taken on
payment or
tender
of sum
awarded.

(28) Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon to the person entitled to receive the same, or upon the payment into court of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the company the power forthwith to take possession of the land, or to exercise the right, or to do the thing for which such compensation or annual rent has been awarded or agreed upon.

Warrant of
possession.

(29) If any resistance or forcible opposition is made to the exercise by the company of any such power, the judge of the county or district court of the county or district in which the land lies, or a judge of the Supreme Court shall, on proof to his satisfaction of such award or agreement, issue his warrant to the sheriff of the county or district to put the company in possession and to put down such resistance or opposition.

Powers of
sheriff.

(30) The sheriff shall, in the execution of such warrant, take with him sufficient assistance for such purpose, and shall put down such resistance or opposition and put the company into possession.

When
warrant of
possession
may issue
before award.

(31) The warrant shall also be granted without the award or agreement, on affidavit to the satisfaction of the judge that the immediate possession of the land or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the railway with which the company is ready forthwith to proceed.

Procedure
upon appli-
cation for
warrant.

(32) The judge shall not grant any warrant under subsection 31 unless,

- (a) ten days' previous notice of the time and place when and where the application for such warrant is to be made has been served upon the owner of the land or

the person empowered to convey the land or interested in the land sought to be taken or which may suffer damage from the taking of materials sought to be taken, or the exercise of the powers sought to be exercised, or the doing of the thing sought to be done, by the company; and

- (b) the company gives security to his satisfaction by payment into court of a sum in his estimation sufficient to cover the probable compensation and costs of the arbitration, and not less than double the amount mentioned in the notice served under subsection 1.

(33) The costs of any such application shall be in the discretion of the judge, and no part of such deposit or of any interest thereon shall be repaid, or paid to such company, or paid to such owner or person, without an order from the judge, which he may make in accordance with the terms of the award. Costs of application.

(34) The compensation for any land which may be taken without the consent of the owner shall stand in the stead of such land, and any claim to or encumbrance upon the land, or any portion thereof, shall, as against the company, be converted into a claim to the compensation or to a like proportion thereof, and the company shall be responsible accordingly whenever it has paid the compensation, or any part thereof, to a person not entitled to receive the same, saving always its recourse against such person. When compensation to stand in the place of the land.

(35) When,

- (a) the company has reason to fear any claim, mortgage or encumbrance; or Payment into court in some cases.
- (b) any person to whom the compensation or annual rent, or any part thereof, is payable, refuses to execute the proper conveyance; or
- (c) the person entitled to claim the compensation or the annual rent cannot be found, or is unknown to the company; or
- (d) for any other reason, the company deems it advisable,

the company may, by leave of a judge of the Supreme Court, pay such compensation or annual rent into court, with the interest thereon for six months, and with such further sum if such judge so directs, as may, in his opinion, be sufficient to cover the expenses of advertising and the costs that may be incurred in consequence of such payment into court, and may deliver to the Accountant of the Supreme Court a copy of the conveyance, or of the award or agreement if there is no conveyance.

Title.	(36) Such conveyance, award or agreement shall thereafter be deemed to be the title of the company to the land therein mentioned.
Notice and publication.	(37) A notice of such payment and delivery, in such form and for such time as a judge of the Supreme Court appoints, shall be inserted in a newspaper published in the county or district in which the land is situate.
Contents of notice.	(38) Such notice shall state that the conveyance, agreement or award constituting the title of the company is obtained under this Act, and shall call upon all persons claiming an interest in or entitled to the land, or to any part thereof, to file their claims to the compensation or any part thereof.
Adjudication on claims.	(39) All such claims filed shall be received and adjudicated upon by the court, and the adjudication shall bar all claims to the land, or any part thereof, including dower as well as all mortgages and encumbrances upon the same.
Adjustment of compensation.	(40) The court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all persons interested as may be proper.
By whom cost to be paid.	(41) The costs of the proceedings in whole or in part, including the proper allowances to witnesses, shall be paid by the company or by any other person as the court may order.
When rebate of interest to be ordered.	(42) If the order for distribution, payment or investment is obtained within less than six months from the payment of the compensation, the court shall direct a proportionate part of the interest to be returned to the company.
Interest as compensation for delay.	(43) If from any error, fault or neglect of the company an order is not obtained until after the six months, the court shall order the company to pay into court, as part of the compensation, the interest for such further period as the court deems just. R.S.O. 1937, c. 259, s. 89.

Compensation to Owners of Lands Adjoining Highways

Compensation to owners of lands adjoining highway.

90.—(1) Where a railway constructs its tracks along one side of a highway or operates over a highway or railway or street railway crossing by means of a bridge, or underneath a highway or railway or street railway crossing by means of a subway or tunnel, and, in the construction of the approaches to the bridge or tunnel, raises or depresses part of a highway the owner of any land adjoining the portion of the highway upon the side thereof upon which the tracks are so constructed or upon or along which the bridge or subway or tunnel or approaches thereto are constructed shall, if by reason of such

construction his land or the business carried on upon the land is thereby injured or in any way depreciated in value, be entitled to receive compensation therefor from the company.

(2) The proceedings to obtain such compensation and to Procedure. determine the amount thereof shall, so far as applicable, be the same as that provided in this Act in the sections respecting the taking of land without the consent of the owner.

(3) Compensation for injury to, or depreciation of the Compensation where grade of highway unaltered. value of any such business or land may be awarded by the arbitrators, if, in their judgment, any such injury or depreciation is caused by the existence of the railway notwithstanding that the grade of the highway may not have been changed or altered.

(4) Not more than one award of damages shall be made Only one award. under this section in respect of the same land or business.

(5) This section shall not apply to such portions of any Saving. railway as are constructed on or before the 1st day of June, 1906, or which may be constructed under agreements existing at that date. R.S.O. 1937, c. 259, s. 90.

Obtaining Stone, Gravel or Other Material

91.—(1) Whenever,

(a) any stone, gravel, earth, sand, water or other material Obtaining materials for construction or operation; is required for the construction, maintenance or operation of the railway, or any part thereof; or

(b) such materials so required are situate, or have been transport. brought to a place, at a distance from the line of railway and the company desires to lay down the necessary tracks, spurs or branch lines, water-pipes or conduits, over or through any lands intervening between the railway and the land on which the materials are situate or to which they have been brought,

the company may, if it cannot agree with the owner of the land for the purchase thereof, cause an Ontario land surveyor to make a plan and description of the property or right-of-way, and shall serve upon each of the owners or occupiers of the land affected a copy of such plan and description, or of so much thereof as relates to the land owned or occupied by them respectively, duly certified by such surveyor.

(2) All the provisions of this Act shall, in so far as applicable, apply, and the powers thereby granted may be used Provisions of this Act which apply. and exercised to obtain the materials so required, or the right of way to the same, irrespective of the distance thereof; but

the company shall not be required to submit any such plan for the sanction of the Board.

Title may
be acquired.

(3) The company may, at its discretion, acquire the land from which such materials are taken, or upon which the right-of-way thereto is located, for a term of years or permanently.

Arbitration.

(4) The notice of arbitration, if arbitration is resorted to, shall state the extent of the privileges and title required.

Tracks not
to be used
for other
purposes.

(5) The tracks, spurs or branch lines constructed or laid by the company under this section shall not be used for any purpose other than in this section mentioned, except by leave of the Board, and subject to such terms and conditions as the Board may impose. R.S.O. 1937, c. 259, s. 91.

Branch Lines and Switches and Sidings to Industries

Power to
construct.

92.—(1) The company may, for the purpose of its undertaking, construct, maintain and operate branch lines, not exceeding in any one case six miles in length, from the main line of the railway or from any branch thereof.

Procedure.

(2) Before commencing to construct a branch line the company shall,

plans, etc.:

(a) make a plan, profile and book of reference, showing the proposed location of the branch line, with the particulars hereinbefore required as to plans, profiles and books of reference of the main line, and deposit the same, or such parts thereof as relate to each county or district through which the branch line is to pass, in the offices of the registrars of deeds for such counties or districts;

notice of
application:

(b) upon such deposit, give four weeks' public notice of its intention to apply to the Board under this section, in a newspaper published in each county or each county or district through which the branch line is to pass, or if there is no newspaper published in such county or district, then for the same period in *The Ontario Gazette*; but the Board may dispense with or shorten the time of such notice in any case in which it deems proper to do so; and

material
to be
submitted.

(c) after the expiration of the notice submit to the Board, upon such application, a duplicate of the plan, profile and book of reference so deposited.

Board may
authorize
branch line.

(3) The Board, if satisfied that the branch line is necessary in the public interest or for the purpose of giving increased facilities to business, and if satisfied with the location of the

branch line and the grades and curves as shown on the plan, profile and book of reference, may, in writing, authorize the construction of the branch line in accordance with the plan, profile and book of reference or subject to such changes in location, grades or curves as the Board may direct.

(4) Such authority shall limit the time, not exceeding two years, within which the company shall construct and complete the branch line. Time for construction.

(5) The company shall deposit with the Board such authority and the duplicate of such plan, profile and book of reference, together with such papers and plans as are necessary to show and explain any changes directed by the Board under this section. Deposit of material with Board.

(6) The company shall deposit in the registry offices of the counties or districts through which the branch line is to pass copies, certified as such by the secretary, of the authority, and of the papers and plans showing the changes directed by the Board. And in registry offices.

(7) No branch line shall be, No extension allowed.

(a) extended under the foregoing provisions for the construction of branch lines; or

(b) constructed so as to form, in effect, an extension of the railway beyond the terminals mentioned in the special Act.

(8) Upon compliance with this section all the other provisions of this Act, except those relating to the sanction by the Board of the plan, profile and book of reference of the railway and the deposit thereof with the Board and in the offices of the registrars of deeds for the counties or districts through which the railway is to pass, shall, in so far as applicable, apply to the branch lines so authorized and to the land to be taken for them. R.S.O. 1937, c. 259, s. 92. Provisions applicable.

93.—(1) Where any industry or business is established or intended to be established within six miles of the railway, and the owner of the industry or business, or the person intending to establish the same, is desirous of obtaining railway facilities in connection therewith, but cannot agree with the company as to the construction and operation of a spur or branch line from the railway thereto, the Board may, on the application of such owner or person, and upon being satisfied of the necessity for such spur or branch line in the interests of trade, order the company to construct, maintain and operate such spur or branch line, and may direct such owner or person to deposit in a chartered bank such sum as is by the Board deemed suffi- Branch line required by owner of any industry.

cient or necessary to defray all expenses of constructing and completing the spur or branch line in good working order, including the cost of the right-of-way, incidental expenses and damages.

Payment
to the
company.

(2) The amount so deposited shall, from time to time, be paid to the company, upon the order of the Board, as the work progresses.

Repayment
to owner
by rebate
on tolls.

(3) The aggregate amount so paid by the applicant in the construction and completion of the spur or branch line shall be repaid or refunded to him by the company by way of rebate, to be determined and fixed by the Board, out of or in proportion to the tolls charged by the company in respect of the carriage of traffic for the applicant over the spur or branch line.

Lien to
owner.

(4) Until so repaid or refunded the applicant shall have a special lien for such amount upon the spur or branch line, to be reimbursed by such rebate.

Discharge
of lien.

(5) Upon repayment by the company to such applicant of all payments made by him upon such construction and completion, the spur or branch line, right-of-way, and equipment shall become the absolute property of the company free from any such lien.

Operation
of branch
to be
regulated
by Board.

(6) The operation and maintenance of the spur or branch line by the company shall be subject to and in accordance with such order as the Board may make with respect thereto having due regard to the requirements of the traffic thereon, and to the safety of the public and of the employees of the company.

Construc-
tion on
application
of municipal
corporation.

(7) A municipal corporation may apply for the construction and maintenance of a spur or branch line for providing facilities in connection with a railway for the purpose of any industry, business or market established within six miles of the railway, and the foregoing subsections shall apply as if the corporation were the person by whom the industry or business was established.

Cost in
such case.

(8) Where the application is made by a municipal corporation, the Board may require the corporation to pay to the company the cost of construction and completion of the spur or branch line, or may require part of it to be paid by the corporation and part of it to be repaid or refunded by way of rebate so provided by subsection 3.

Provisions
applicable.

(9) All the provisions of this Act respecting the construction of spur or branch lines shall apply to any spur or branch line constructed under this section. R.S.O. 1937, c. 259, s. 93.

Purchase of More Land than Necessary

94.—(1) Whenever the company can purchase a larger quantity of land from any particular owner at a more reasonable price, on the average, or on more advantageous terms than it could obtain the portion thereof which it may take from him without his consent it may purchase such larger quantity. When company may purchase.

(2) The company may sell and dispose of any part of the land so purchased which may be unnecessary for the undertaking. R.S.O. 1937, c. 259, s. 94. Sale of surplus land.

Snow Fences

95.—(1) Every company may, on and after the 1st day of November in each year, enter into and upon any lands of the Crown, or of any person, lying along the route or line of the railway and erect and maintain snow fences thereon, subject to the payment of such land damages, if any, actually suffered and thereafter established, in the manner provided by law with respect to such railway. Erection of snow fences.

(2) Every snow fence so erected shall be removed on or before the 1st day of April then next following. R.S.O. 1937, c. 259, s. 95. Removal.

Use of Adjacent Lands during Construction

96.—(1) The company, either for the purpose of constructing or repairing its railway, or for the purpose of carrying out the requirements of the Board, or in the exercise of the powers conferred upon it by the Board, may enter upon any land which is not more than six hundred feet distant from the centre of the located line of the railway, and may occupy such land as long as is necessary for such purposes, and all the provisions of law at any time applicable to the taking of land by the company, and its valuation, and the compensation therefor, shall apply to the case of any land so required. Use of adjacent lands.

(2) Before entering upon any land for such purposes the company shall, if the consent of the owner is not obtained, pay into the Supreme Court, If owner does not consent.

(a) such sum as is, after two clear days' notice to the owner of the land, or to the person empowered to convey the same, or interested therein, fixed by a judge of the court; and

(b) interest for six months upon the sum so fixed.

(3) Such deposit shall be retained to answer any compensation which may be awarded the person entitled thereto, and may, upon order of a judge of the court, be paid out to As security for compensation.

such person in satisfaction *pro tanto* of such award, and the surplus, if any thereafter remaining, shall, by order of the judge, be repaid to the company.

Deficiency
to be paid.

(4) Any deficiency in such deposit to satisfy such award shall be forthwith paid by the company to the person entitled to compensation under such award. R.S.O. 1937, c. 259, s. 96.

CONSTRUCTION AND EQUIPMENT

Gauge

Gauge.

97. The tracks of every railway, the construction of which is hereafter commenced, shall be of the standard gauge of four feet eight and one-half inches, unless the Board upon the application of the company otherwise orders. R.S.O. 1937, c. 259, s. 97.

Equipment and Appliances for Trains

Modern and
efficient.

98.—(1) Every company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means,

Communi-
cation.

(a) to provide immediate communication between the conductor, while in any car of any passenger train, and the engine driver or motorman;

Brakes.

(b) to check at will the speed of the train, and bring it safely to a standstill, as quickly as possible, and except under circumstances of sudden danger or emergency, without causing undue discomfort to passengers, if any, on the train; and

Couplers.

(c) to securely couple and connect the cars composing the train, and to attach the engine to such train, with couplers which couple automatically by impact and which can be uncoupled without the necessity of men going in between the ends of the cars.

Drive wheel
brake.

(2) Such apparatus, appliances and means for the checking of speed or the stopping of a train shall include a power drive-wheel brake and appliances for operating the train brake system upon the locomotive.

Power or
train brakes.

(3) There shall also be such a number of cars in every train equipped with power or train brakes that the engineer or motorman on the locomotive drawing the train can control its speed, or bring the train to a stop in the quickest and best manner possible, without requiring brakeman to use the common hand brake for that purpose.

(4) Upon all trains carrying passengers such system of brakes shall be continuous, instantaneous in action, and capable of being applied at will by the engine driver, motorman or any brakeman, and the brakes must be self-applying in the event of any failure in the continuity of their action. Continuous, instantaneous action.

(5) All box freight cars of the company shall, for the security of railway employees, be equipped with, Box freight cars.

(a) outside ladders, on two of the diagonally opposite ends and sides of each car, projecting below the frame of the car, with one step or rung of each ladder below the frame, the ladders being placed close to the ends and sides to which they are attached; and Outside ladders.

(b) hand grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladders, Hand grips.

and if there is at any time any other improved side attachment which, in the opinion of the Board, is better calculated to promote the safety of the train hands the Board may require any of such cars, not already fitted with the side attachments by this section required, to be fitted with such improved attachment. Other improvements.

(6) The running-board on the roof of each box freight car of the company shall, at all times, be of sufficient thickness and strength, and not less than thirty inches in width, and shall, with proper and safe supports, extend the whole length of the car and beyond each end thereof to a point not more than two inches less than that to which the dead-wood or bumpers at each end of the car likewise extend. Running-boards.

(7) Every company shall adopt and use upon all its rolling stock such height of draw-bars as the Board determines, in accordance with any standard from time to time adopted by competent railway authorities. Height of draw-bars.

(8) The Board may upon good cause shown, by general regulation, or in any particular case, from time to time grant delay for complying with this section. Delay may be allowed for compliance.

(9) The Board may, subject to the requirements of the preceding provisions of this section, upon application, order that any apparatus or appliance specified in the order shall, when used upon the train in the manner and under circumstances in the order specified, be deemed sufficient compliance with such provisions, but the Board shall not by the order allow any exception to or modification of the requirements of this section. Board may determine what equipment sufficient.

Oiling.

(10) The oil cups or other appliances used for oiling the valves of every locomotive in use upon any railway shall be such that no employee shall be required to go outside the cab of the locomotive, while it is in motion, for the purpose of oiling such valves.

Safeguards
against fire
in cars.

(11) Every passenger, baggage, mail and express car, which is owned or regularly used on any railway in Ontario, in which heating apparatus is placed, shall be provided with such safeguards against fire as the Board shall in writing from time to time approve.

Penalty for
non-com-
pliance.

(12) Every company which fails to comply with any of the provisions of this section shall forfeit to the Crown a sum not exceeding \$200 for every day during which the default continues, and shall as well be liable to pay to all such persons as are injured by reason of the non-compliance with these provisions, or to their representatives, such damages as they are legally entitled to notwithstanding any agreement to the contrary. R.S.O. 1937, c. 259, s. 98.

Locomotives
to have bells
or whistles.

99. Every locomotive, engine and electric locomotive shall be furnished with a bell of at least thirty pounds weight or with a steam or air whistle. R.S.O. 1937, c. 259, s. 99.

Gongs and
whistles.

100. Every car which contains a motor or which runs at the head of a train shall be furnished with a gong, to be approved by regulation of the Board, or with an air whistle. R.S.O. 1937, c. 259, s. 100.

Protection of
conductors
and motor-
men.

101.—(1) Every car in use for the transportation of passengers in November, December, January, February, March and April in each year, which while in motion requires the constant care or service of a motorman upon the platforms of the car or upon one of them, shall have its platforms so enclosed as to protect the motorman from exposure to wind and weather in such manner as the Board approves.

Where no
rear
vestibules.

(2) Every company operating its cars without rear-end vestibules shall allow the conductors employed on such cars to stand inside the cars during such period so far as is consistent with the proper performance of their duties.

Compartment for
motorman.

(3) Every motor car built after the passing of this Act, designed for carrying passengers upon a railway operated by electricity, shall be so constructed that the motorman having the control of the motive power shall be stationed in a compartment into which no person shall be admitted save the officers or employees of the company on duty, and no person other than such officers or employees shall be permitted to occupy any portion of such compartment or vestibule.

(4) Every company offending against this section shall be guilty of an offence and on summary conviction shall be liable to incur a penalty of \$100 for each offence, and every person offending against this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$2 and not more than \$50. Penalty.

(5) This section shall apply only to railways operated by electricity, street railways and incline railways. R.S.O. 1937, c. 259, s. 101. Application.

102. The Board may, by order applicable either generally or in one or more particular cases, alter or modify any of the requirements of section 101. R.S.O. 1937, c. 259, s. 102. Power to modify requirements of section 101.

Powers of Board as to Equipment and Service

- 103.**—(1) The Board may make orders and regulations, Board may make regulations respecting.
- (a) limiting the rate of speed at which railway trains and locomotives may be run in any city, town or village, or in any class of cities, towns or villages, and prescribing, if it thinks fit, certain maximum rates of speed within certain described portions of any city, town or village, and different rates of speed in other portions thereof; speed of trains;
 - (b) with respect to the use of the steam whistle within any city, town or village or any portion thereof; use of steam whistle;
 - (c) with respect to the method and means of passing from one car to another, either inside or overhead, and for the safety of employees while passing from one car to another; passing from car to car;
 - (d) for the coupling of cars; coupling;
 - (e) requiring proper shelter to be provided for all employees when on duty; shelter for employees;
 - (f) with respect to the use on any engine of nettings, screens, grates and other devices, and the use on any engine or car of any appliances and precautions, and generally in connection with the railway respecting the construction, use and maintenance of any fire-guard or works which may be deemed by the Board necessary and most suitable to prevent, as far as possible, fires from being started or occurring upon, along or near the right-of-way of the railway; devices to avoid fires;
 - (g) requiring the company to establish and maintain an efficient and competent staff of fire-rangers, equipped with such appliances for fighting or pre- fire-rangers;

venting fires from spreading as the Board may deem proper, and to provide such rangers with proper and suitable equipment to enable them to move from place to place along the line of railway with all due speed;

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|---------------------------|--|
| patrol of railway; | (h) requiring the company to maintain an efficient patrol of the line of railway and other lands in the vicinity thereof to which fires may spread, and generally to define the duties of the company and such fire-rangers in respect thereof; |
| returns; | (i) requiring the company to make returns of the names of fire-rangers in its employ in the performance of the above duties, and of the places or areas in which they are from time to time engaged; |
| for protection generally; | (j) with respect to the rolling stock, apparatus, cattle-guards, fenders, brakes, sanders, and vestibules, steps, seats, heating, lighting, open or closed cars, appliances, signals, methods, devices, structures and works to be used upon the railway, so as to provide means for the due protection of property, the employees of the company, and the public; |
| other matters; | (k) with respect to any matter, act or thing which, by this Act or the special Act is sanctioned, required to be done, or prohibited; |
| generally. | (l) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. |
- Powers of rangers. (2) For the purpose of fighting and extinguishing fires, the fire-rangers may follow the fires which spread from the railway to, over and upon the lands to which they may spread.
- Application of orders. (3) Any such orders or regulations may be made to apply to any particular locality, to any railway or section, or portion thereof, and the Board may exempt any railway or section or portion thereof, from the operation of any such order or regulation, for such time or during such period as the Board deems expedient.
- Penalties. (4) The Board may, by regulation, provide penalties, when not already provided in this Act, to which every company, person or municipal corporation offending against any regulation made under this section shall be liable, but no such penalty shall exceed \$100 for each offence, and every such penalty shall be recoverable on summary conviction or by action at the suit of the Attorney-General as the Board may, by regulation, determine.

(5) The imposition of any such penalty shall not lessen ^{Saving.} or affect any other liability which any company, person or municipal corporation may have incurred.

(6) All orders or regulations under this section may be ^{Application of regula-} made to apply to any railways, whether operated by steam, ^{tions.} electricity or other motive power, but no such order or regulation shall increase or extend, lessen or impair any obligation or duty resting upon, or any privilege or franchise enjoyed by the company under the special Act or under any agreement. R.S.O. 1937, c. 259, s. 103.

104.—(1) Whenever the Board is of opinion after a hear- ^{Jurisdiction of Board over railway.} ing had upon its own motion or upon complaint, that the regulations, practices, equipment, appliances or service of any railway company, street railway company, or incline railway company in respect to the transportation of persons, freight or property are unjust, unreasonable, unsafe, improper or inadequate, it shall determine the just, reasonable, safe, proper and adequate regulations, practices, equipment, appliances or service thereafter to be in force, to be observed and to be used in such transportation of persons, freight, and property, and fix and prescribe the same by order to be served upon the company to be bound thereby, and it shall be the duty of the company to observe and obey every requirement of every such order and to do everything necessary or proper in order to secure absolute compliance with and observance of every such order by its officers, agents and employees.

(2) Whenever, in the opinion of the Board, repairs or ^{Tracks and motive power.} improvements to or changes in any tracks, road-beds, switches, terminals or terminal facilities, motive power or any other property or device used by any railway company or street railway company, or incline railway company, in or in connection with the transportation of passengers, freight or property, ought reasonably to be made thereto in order to promote the security or convenience of the public or of the employees of the company or to secure adequate service or facilities for the transportation of passengers, freight or property, the Board, upon a hearing had either upon its own motion or after complaint, shall make and serve an order directing such repairs, improvements, changes or additions to be made within a reasonable time and in a manner to be specified therein, and every company shall make all repairs, improvements, changes and additions required of it by any such order within the time and in the manner specified in the order.

(3) Whenever in the opinion of the Board, a street railway ^{Jurisdiction over street railways or incline railways.} company or incline railway company,

- (a) does not run cars enough or possess or operate motive power enough reasonably to accommodate the passengers transported or offered for transportation to it;
- (b) does not run its cars with sufficient frequency or at a reasonably proper time;
- (c) does not run any car upon a reasonable time schedule for the run;
- (d) does not provide reasonable routes and services for the accommodation of the public;
- (e) does not provide for stopping its cars to take on and discharge its passengers at convenient points or at a sufficient number of points;
- (f) does not sufficiently or properly heat and light any of its cars or keep the same clean; or
- (g) operates any car which is not in proper repair and condition,

the Board may, after a hearing had either on its own motion or upon complaint, make an order directing the company to increase the number of its cars or its motive power, to change the time for starting any car, to change the time schedule for the run of any car, to run cars and provide a sufficient service upon any route that the Board may deem necessary for the accommodation of the public, to sufficiently light and heat its cars and keep them clean, to stop its cars to take on and discharge passengers at such points as the Board may deem proper, and may make any other order which the Board may deem necessary to accommodate and transport the passengers transported or offered for transportation, and the company shall be bound to obey every such order according to the exigency thereof.

Additional
powers.

(4) The powers conferred by subsections 1, 2 and 3 upon the Board shall be in addition to the powers conferred upon it elsewhere in this Act.

Enforcement
of orders.

(5) The Board shall have the like power and authority for the enforcement of any order made by it under subsections 1, 2 and 3 as it possesses for the enforcement of its orders under the other provisions of this Act, and especially the power and authority conferred by section 53 of *The Ontario Municipal Board Act*, and section 261 of this Act.

Rev. Stat.,
c. 262.

Application
of section.

(6) This section shall apply notwithstanding any agreement between the company and a municipal corporation or any general or special Act relating to the agreement or to the company.

(7) The powers conferred by this Act in the case of street railways wholly or partly in cities having a population of one hundred thousand or over shall include, but in the case of other street railways shall not include, the power to require the company owning or operating the street railway to construct, maintain and operate additional lines and extensions of existing lines, in, along and upon any street or highway or part of a street or highway upon which the company has authority to construct, maintain and operate its railway.

Power to require construction, maintenance and operation of additional lines.

(8) The Board shall not have power or authority to require or to permit a railway company, street railway company, or incline railway company, without the consent of the corporation of the municipality, to construct or lay down within the municipality more tracks or lines than, under its agreement with the corporation or the by-law of the corporation by which authority to construct the railway upon any such street or highway or part of a street or highway was conferred, it has authority to construct or lay down, but the agreement or by-law shall govern as to the number and location of the tracks and the streets or highways upon which the railway may be constructed.

Limitation of Board's power.

(9) All tracks, switches, additional lines and extensions of existing lines which are, have been or shall be hereafter constructed and operated by a street railway company or incline railway company, in pursuance of an order of the Board, shall nevertheless be deemed to have been constructed under the authority, and shall be subject to all the provisions of the agreement between the company and the corporation of the municipality, or the by-law of the council thereof, by which authority to construct the railways was conferred upon the company. R.S.O. 1937, c. 259, s. 104.

Application of agreement.

105. Railways operated by electricity shall stop at such places, in addition to those fixed by the by-laws or regulations of the company, as the Board may from time to time, by resolution, direct and order. R.S.O. 1937, c. 259, s. 105.

Stopping places.

106.—(1) Open or summer cars, for use upon a railway operated by electricity or upon a street railway, shall be so arranged or constructed that the seats for passengers will face the front of the car when in motion, and an aisle sufficiently wide to allow the passage of the conductor shall be provided in every such car, and no open or summer cars shall be used unless so arranged.

Open cars.

(2) The side steps on such cars shall be so constructed, if in the opinion of the Board it is practicable, that passengers will be prevented from standing upon the same while the car is in motion.

Side steps.

Exception.

(3) The Board may relieve a company from the obligation imposed by subsection 1 as to any route upon which the space between the tracks, commonly called the devil strip, is not sufficiently wide to permit cars so arranged or constructed to be used.

Disputes to be settled by Board.

(4) In all cases of dispute between a railway or street railway company and a municipal corporation or any person making complaint to the Board as to sufficiency of width, practicability of construction of cars or as to any other matter or thing mentioned in this section, the order of the Board shall be final and shall not be subject to appeal, and any order made by the Board as to any such matter shall be carried out and fulfilled by the company and the municipal corporation or either or both of them according to its terms. R.S.O. 1937, c. 259, s. 106.

Passengers not to stand on side steps.

107.—(1) No passenger shall stand or be permitted to stand upon the side steps of any car for a greater length of time than is necessary to enable him to enter or leave the same.

Penalty.

(2) Every person contravening subsection 1 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$2 and not more than \$10. R.S.O. 1937, c. 259, s. 107.

THE ROAD BED AND ADJACENT LANDS

Frogs, Packing, etc.

Packing.

108.—(1) The spaces behind and in front of every railway frog or crossing, and between the fixed rails of every switch where the spaces are less than four inches in width, shall be filled with packing up to the under side of the head of the rail.

Idem

(2) The spaces between any wing rail and any railway frog, and between any guard rail and the track rail alongside of it, shall be filled with packing at their splayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than four inches.

height of;

(3) The packing shall not reach higher than the underside of the head of the rail.

of what to consist;

(4) The packing shall consist of wood or metal, or some equally substantial and solid material, of not less than two inches in thickness, and, where by this section any space is required to be filled in on any railway, shall extend to within one and a half inch of the crown of the rails in use, shall be neatly fitted so as to come against the web of the rails, and shall be well and solidly fastened to the ties on which the rails are laid.

(5) The Board may, notwithstanding the requirements of this section, allow the filling and packing therein mentioned to be left out from the month of December to the month of April in each year, both months included, or between any such dates as the Board, by regulation or in any particular case, determines. R.S.O. 1937, c. 259, s. 108. Board may regulate.

Drainage

109.—(1) The company shall, in constructing the railway, make and maintain suitable ditches and drains along each side of and across and under the railway to connect with ditches, drains, drainage works and watercourses upon the land through which the railway runs, so as to afford sufficient outlet to drain and carry off the water, and so that the then natural, artificial, or existing drainage of the land is not obstructed or impeded by the railway. Ditches and drains.

(2) Whenever,

(a) any land is injuriously affected by reason of the drainage upon, along, across, or under the railway being insufficient to drain and carry off the water from such land; or Board may order drainage.

(b) any municipal corporation or landowner desires to obtain means of drainage, or the right to lay water pipes or other pipes, temporarily or permanently, through, along, upon, across, or under the railway or any works or land of the company,

the Board may, upon the application or complaint of the municipal corporation or landowner, order the company to construct such drainage or lay such pipes, and may require the applicant to submit to the Board a plan and profile of the portion of the railway to be affected, or may direct an inspecting engineer, or such other person as it deems advisable to appoint, to inspect the locality in question, and, if expedient, there to hold an inquiry as to the necessity or requirements for such drainage or pipes, and to make a full report thereon to the Board.

(3) The Board may upon such report, or in its discretion, order how, where, when, by whom and upon what terms and conditions such drainage may be effected, or pipes laid, constructed and maintained, having due regard to all proper interests. Terms and conditions.

(4) An order of the Board shall not be required in cases in which water pipes or other pipes are to be laid or maintained under the railway, with the consent of the railway company, in accordance with any general regulations, plans or specifications adopted or approved by the Board for such purpose. R.S.O. 1937, c. 259, s. 109. When order not required.

Drainage
proceedings
under Pro-
vincial Acts.

110.—(1) Whenever, by virtue of any Act, proceedings may be had or taken by any municipal corporation or landowner for any drainage, or drainage works, including the construction, enlargement, improvement or extension of any ditch or watercourse upon or across the property of any landowner, such proceedings may be had or taken by such municipal corporation or landowner for drainage or drainage works upon and across the railway and land of the company, in the place of the proceedings before the Board provided for by section 109.

Application
of such Acts.

(2) Thereupon such Act shall apply to the land of the company upon or across which such drainage or other work is required, subject, however, to any previous order or direction of the Board made or given with respect to drainage of the same land, and the company shall have the option of constructing the portion of any drain or drainage work required to be constructed upon, along, under or across its railway or land.

Where
delay.

(3) In the event of the company not exercising such option, and completing such work within a reasonable time and without any unnecessary delay, such work may be constructed or completed in the same manner as any other portions of such work are to be constructed under such Act.

Approval
of Board.

(4) Notwithstanding anything in this section, no such drain or drainage works shall be constructed or reconstructed upon, along, under or across the railway or land of the company until the character of such works or the specifications or plans thereof have been first submitted to and approved of by the Board.

Cost of
work.

(5) The proportion of the cost of drain or drainage works upon, along, under or across the railway or land of the company to be borne by the company shall in such cases be based upon the increase of cost of such work caused by the construction and operation of the railway. R.S.O. 1937, c. 259, s. 110.

Canals, Ditches, Wires, etc.

When canals,
pipes or wires
require to
be carried
across a
railway.

111.—(1) When any person having authority to create, develop, enlarge or change any water power, or any electrical or power development by means of water, or to develop and operate mineral claims or mines, desires for any such purpose to carry any canal, tunnel, flume pipe, ditch or wire across, over or under any railway, and is unable to agree with the railway company as to the terms and conditions upon which the same may be so carried over, under or across the railway, an application may be made to the Board for leave to construct the necessary works.

(2) Upon the application the applicant shall submit to the Board a plan and profile of the railway at the point where it is desired to make the crossing, and a plan or plans showing the proposed method of carrying the canal, tunnel, flume pipe, ditch or wire across, over or under the railway, and such other plans, drawings and specifications as the Board in any case or by any regulation requires. Plan and profile.

(3) The Board may, by order, grant the application on such terms and conditions as to protection and safety, payment of compensation or otherwise, as it deems just and proper, may change the plans, profiles, drawings and specifications so submitted, and fix the place and mode of crossing, and may give directions as to the method in which the works are to be constructed and as to supervision of the construction of the works and the maintenance thereof, and may order that detailed plans, drawings and specifications of any works, structures, equipment or appliances required shall, before construction or installation, be submitted to and approved by the Board. R.S.O. 1937, c. 259, s. 111. Terms of order.

Farm Crossings

112.—(1) Every company shall make crossings for persons across whose land the railway is carried convenient and proper for the crossing of the railway for farm purposes. Farm crossings.

(2) Live stock in using such crossing shall be in charge of some competent person who shall take all reasonable care and precaution to avoid accidents. R.S.O. 1937, c. 259, s. 112. Care of live stock.

113.—(1) The Board may, upon the application of any landowner, order the company to provide and construct a suitable crossing across the railway wherever in any case the Board deems it necessary for the proper enjoyment of his land, on either side of the railway, and safe in the public interest. Necessary crossings may be ordered by Board.

(2) The Board may order and direct how, when, where, by whom, and upon what terms and conditions, such crossing shall be constructed and maintained. R.S.O. 1937, c. 259, s. 113. Details.

Fences, Gates and Cattle-guards

114.—(1) The company shall erect and maintain upon the railway, Erection and Maintenance.

- (a) fences of a minimum height of four feet six inches on each side of the railway; fences;
- (b) swing gates in fences, of the height of the fence, with proper hinges and fastenings, at farm crossings; gates; pro-

vided that sliding or hurdle gates, constructed before the 14th day of May, 1906, may be maintained; and

cattle-
guards.

(c) cattle-guards, on each side of the highway, at every highway crossing at rail level with the railway.

Fences to
be turned
into cattle-
guards.

(2) The railway fences at every such crossing shall be turned into the respective cattle-guards on each side of the highway.

Exception.

(3) Subsections 1 and 2 shall not apply where a railway is being operated along a public highway.

Nature of
fences, etc.

(4) Fences, gates and cattle-guards shall be suitable and sufficient to prevent cattle, horses and other animals from getting on the railway lands.

Exemption
by Board.

(5) The Board may, upon application made to it by the company, relieve the company, temporarily or otherwise, from erecting and maintaining fences, gates and cattle-guards, where the railway passes through any locality in which, in the opinion of the Board, such works and structures are unnecessary.

Where lands
are enclosed.

(6) Where the railway is being constructed through enclosed lands it shall be the duty of the company to take effective measures to prevent cattle or other animals escaping from or getting upon such enclosed lands or upon the property of the company by reason of any act or thing done by the company, its contractors, agents or employees.

Duty of
users to
close gates.

(7) The persons for whose use farm crossings are furnished shall keep the gates at each side of the railway closed when not in use. R.S.O. 1937, c. 259, s. 114.

Fencing line
adjoining
highway.

115. Where the railway passes alongside of and immediately adjacent to a public highway the company shall not be required to erect and maintain a fence between the company's land and the highway unless the Board otherwise orders or directs; but where the railway is diverted from alongside of the highway the company shall erect and maintain cattle-guards at the point of diversion, and the railway fences at such point shall be turned into the cattle-guards. R.S.O. 1937, c. 259, s. 115.

Bridges, Tunnels and Other Structures

Headway
in tunnels
and bridges.

116.—(1) Every bridge, tunnel or other erection or structure, over, through or under which any railway passes, shall be so constructed and maintained as to afford, at all times, an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the

lowest beam, member, or portion of that part of such bridge, tunnel, erection or structure, which is directly over the space liable to be traversed by such car in passing thereunder.

(2) The Board may, if necessary, require any existing bridge, tunnel or other erection or structure to be reconstructed or altered, within such time as it may order, so as to comply with the requirements mentioned in subsection 1, and any such bridge, tunnel, or other erection or structure when so reconstructed or altered shall thereafter be maintained accordingly. Alteration of existing structures.

(3) Except by leave of the Board the space between the rail level and such beams, members or portions of any such structure, constructed after the 14th day of May, 1906, shall in no case be less than twenty-two feet six inches. Space.

(4) If, in any case, it is necessary to raise, reconstruct or alter any bridge, tunnel, erection or structure not owned by the company, the Board, upon application of the company, and upon notice to all parties interested, or without any application, may make such order, allowing or requiring such raising, reconstruction or alteration, and upon such terms and conditions as to the Board shall appear just and proper and in the public interest. Where structures not owned by company.

(5) The Board may exempt from the operation of this section any bridge, tunnel, erection or structure, over, through or under which no trains, except such as are equipped with air brakes, are run. What may be exempted.

(6) Every company or owner shall incur a penalty of not more than \$50 for each day of wilful neglect, omission or refusal to obey the provisions of this section. R.S.O. 1937, c. 259, s. 116. Penalty for default.

117.—(1) The company shall not commence the construction or reconstruction of or any material alteration in any bridge, tunnel, viaduct, trestle, or other structure, through, over, or under which the company's trains are to pass, the span, or proposed span or spans, or length of which exceeds eighteen feet, until leave therefor has been obtained from the Board, unless such construction, reconstruction or alteration is made in accordance with standard specifications and plans approved by the Board. When approval of Board required for alterations in bridges, etc.

(2) Upon any application to the Board for such leave, the company shall submit to the Board the detail plans, profiles, drawings and specifications of any such work proposed to be constructed, or reconstructed, and such other plans, profiles, drawings and specifications as the Board may, in any case or by regulation, require. Application therefor and material.

Powers of
Board on
application.

(3) Upon any such application the Board may,

- (a) make such order with regard to the construction of such work, and upon such terms and conditions as it deems expedient;
- (b) make alterations in the detail plans, profiles, drawings and specifications so submitted;
- (c) give directions respecting the supervision of any such work; and
- (d) require that such other works, structures, equipment, appliances and materials be provided, constructed, maintained, used, and operated, and that such measures be taken, as, under the circumstances of each case, may appear to the Board best adapted for securing the protection, safety and convenience of the public.

Company
may con-
struct.

(4) Upon such order being granted the company shall be authorized to construct such works in accordance therewith.

Leave of
Board
authorizing
operation.

(5) Upon the completion of any such work the company shall, before using or operating the work, apply to the Board for an order authorizing such use or operation, and the Board may grant such order if it is satisfied that its orders and directions have been carried out and the work may be used or operated without danger to the public and that this section has been complied with. R.S.O.1937, c.259, s.117.

Railways Along or Across Highways

Railway on
highway.

118.—(1) Subject to the provisions of this Act respecting the operation of railways along highways, and subject to the company, not being a street railway company, making such compensation to adjacent or abutting landowners whose lands are injuriously affected, whether structurally or otherwise, by the construction or operation of the railway as the Board deems proper, the railway of the company may be carried upon, along, or across an existing highway upon leave therefor having been first obtained from the Board as hereinafter authorized; but the Board shall not grant leave to any company to carry any street railway or tramway, or any railway operated or to be operated as a street railway or tramway, along any highway which is within the limits of any city or town until the company has first obtained consent therefor by a by-law of the city or town.

Highway
to be kept
open.

(2) The company shall, before obstructing any such highway by its works, turn the highway so as to leave an open and good passage for carriages, and on completion of the

works shall restore the highway to as good a condition as it was originally in.

(3) Every company which contravenes the provisions of Penalty. this section shall incur a penalty of not less than \$40 for each contravention. R.S.O. 1937, c. 259, s. 118.

119. Whenever the railway crosses any highway at rail level, whether the level of the highway remains undisturbed or is raised or lowered to conform to the grade of the railway, the top of the rail may, when the works are completed, unless otherwise directed by the Board, rise above or sink below the level of the highway to the extent of one inch without being deemed an obstruction. R.S.O. 1937, c. 259, s. 119. Variation of inch between rail and levels of highways permitted.

120.—(1) Upon any application for leave to construct a railway upon, along or across any highway, or to construct a highway along or across any railway, the applicant shall submit to the Board a plan and profile showing the portion of the railway and highway affected. Deposit of plan with Board.

(2) The Board may, by order, grant the application in whole or in part and upon such terms and conditions as to protection, safety and convenience of the public as the Board deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, or that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction, in the opinion of the Board, arising or likely to arise in respect of the granting of the application in whole or in part in connection with the crossing applied for, or arising or likely to arise in respect thereof in connection with any existing crossing. Powers of Board.

(3) When the application is for the construction of the railway upon, along or across a highway, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board. Provisions as to taking land and compensation.

(4) The Board may exercise supervision in the construction of any work ordered by it under this section, or may give directions respecting such supervision. Supervision.

(5) When the Board orders the railway to be carried over or under the highway, or the highway to be carried over or Details to be approved by Board.

under the railway, or any diversion temporarily or permanently of the railway or the highway, or any works to be executed under this section, the Board may direct that detailed plans, profiles, drawings and specifications be submitted to the Board.

Regulations
by Board.

(6) The Board may make regulations respecting the plans, profiles, drawings and specifications required to be submitted under this section. R.S.O. 1937, c. 259, s. 120.

Foot-
bridges.

121. The Board may order any company to erect over its railways at or near, or in lieu of any highway crossing at rail level, a foot-bridge or foot-bridges for the purpose of enabling persons passing on foot along the highway to cross the railway by means of such bridge or bridges. R.S.O. 1937, c. 259, s. 121.

Width of
highway and
height of
overhead
railway
crossings.

122. The highway at any overhead railway crossing shall not at any time be narrowed by means of any abutment or structure to an extent less than twenty feet, nor shall the clear headway from the surface of the highway to the centre of any overhead structure, constructed after the 14th day of May, 1906, be less than fourteen feet, unless otherwise directed or permitted by the Board. R.S.O. 1937, c. 259, s. 122.

Powers of
Board as to
existing
crossings.

123.—(1) Where a railway is already constructed upon, along or across any highway the Board may, upon its own motion, or upon complaint or application by or on behalf of the Crown, or any municipal or other corporation, or any person aggrieved, order the company to submit to the Board, within a specified time, a plan and profile of such portion of the railway and may cause inspection of the portion and may inquire into and determine all matters and things in respect of the portion, and the crossing, if any, and may make such order as to the protection, safety and convenience of the public as it deems expedient, or may order that the railway be carried over, under or along the highway or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, and that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction, in the opinion of the Board, arising or likely to arise in respect of the portion or crossing, if any, or any other crossing directly or indirectly affected.

Provisions
as to taking
land and
compensa-
tion.

(2) When the Board of its own motion, or upon complaint or application, makes an order that a railway be carried across or along a highway, or that a railway be diverted, all the provisions of law at such time applicable to the taking of land by

the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board.

(3) Notwithstanding anything in this or in any other Act, the Board may, subject to the provisions of section 124, order what portion, if any, of the cost is to be borne respectively by the company, municipal or other corporation, or person in respect of any order made by the Board under this section or section 122, and such order shall be binding on and enforceable against any railway company, municipal or other corporation or person named in the order. R.S.O. 1937, c. 259, s. 123. Apportionment of cost of changes.

124. Where a railway is constructed after the passing of this Act the company shall, at its own cost and expense, unless and except as otherwise provided by agreement, approved of by the Board, between the company and a municipal or other corporation or person, provide, subject to the order of the Board, all protection, safety and convenience for the public in respect of any crossing of a highway by the railway. R.S.O. 1937, c. 259, s. 124. Railways hereafter constructed to provide for safety of public at highway crossings.

125. Every structure by which any railway is carried over or under any highway, or by which any highway is carried over or under any railway, shall be so constructed and, at all times, be so maintained as to afford safe and adequate facilities for all traffic passing over, under or through such structure. R.S.O. 1937, c. 259, s. 125. All structures must be safely constructed and maintained.

126.—(1) The inclination of the ascent or descent, as the case may be, of any approach by which any highway is carried over or under any railway, or across it at rail level, shall not, unless the Board otherwise directs, be greater than one foot of rise or fall for every twenty feet of the horizontal length of the approach. Inclination of highway.

(2) A good and sufficient fence, at least four feet six inches in height from the surface of the approach or structure, shall be made on each side of the approach, and of the structure connected with it. R.S.O. 1937, c. 259, s. 126. Fencing approaches.

127. Signboards at every highway crossed at rail level by any railway shall be erected and maintained at each crossing, and shall have the words "Railway Crossing" painted on each side thereof, in letters at least six inches in length, and every company which neglects to comply with this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10. R.S.O. 1937, c. 259, s. 127. Signboards at level crossings. Penalty.

Railway may be required to repair any level crossing out of repair.

128.—(1) Where a level crossing on any railway is out of repair the head of the municipality, under the jurisdiction of whose council the highway is, may serve a notice upon the company in the usual manner requiring the repair to be made forthwith, and if the company does not make the repair forthwith the head of the municipality may transmit a copy of the notice so served to the Board, and thereupon the Board may order an inspection to be made and may appoint an inspector for that purpose who shall appoint forthwith a day when he will examine into the matter, and he shall, by mail, give notice to the head of the municipality and to the company of the day so appointed, and upon the day so appointed he shall examine the crossing, and a certificate under his hand shall be final on the subject so in dispute between the parties, and if the inspector determines that any repair is required he shall specify the nature thereof in his certificate and direct the company to make the repair, and the company shall forthwith comply with the certificate, and, in case of default, the corporation of the municipality may make the repair and recover all costs, expenses and outlays in the premises by action against the company.

Payment of inspectors.

(2) The inspector shall be entitled to be paid \$10 and actual travelling expenses while engaged on the inspection, and in case he finds that any repair is required he shall be paid by the company, but if he finds that no repair is required he shall be paid by the municipality.

Other liability.

(3) Neither this section or any proceeding had thereunder shall affect any liability otherwise attaching to the company in the premises. R.S.O. 1937, c. 259, s. 128.

Crossing and Junction of Railways

Leave necessary for crossings and junctions.

129.—(1) The railway lines or tracks of any company shall not cross or join or be crossed or joined by or with any railway lines or tracks other than those of such company until leave therefor has been obtained from the Board as hereinafter provided.

Application to Board and material.

(2) Upon an application for leave the applicant shall submit to the Board a plan and profile of the crossing or junction and such other plans, drawings and specifications as the Board may, in any case or by regulation, require.

Powers of Board.

(3) The Board may by order,

- (a) grant the application on such terms as to protection and safety as it may deem expedient;
- (b) change the plan and profile, drawings and specifications so submitted and fix the place and mode of crossing or junction;

- (c) direct that one line or track or one set of lines or tracks be carried over or under another line or track or set of lines or tracks;
- (d) direct that such works, structures, equipment, appliances and materials be constructed, provided, installed, maintained, used or operated, watchmen or other persons employed, and measures taken, as under the circumstances appear to the Board best adapted to remove and prevent all danger of accident, injury or damage;
- (e) determine the amount of damage and compensation, if any, to be paid for any property or land taken or injuriously affected by reason of the construction of the works;
- (f) give directions as to supervision of the construction of the works; and
- (g) require that detailed plans, drawings and specifications of any works, structures, equipment or appliances required, shall, before construction or installation, be submitted to and approved by the Board.

(4) No trains shall be operated on the lines or tracks of the applicant, over, upon or through the crossing or junction until the Board grants an order authorizing the operation. Leave of Board authorizing operation.

(5) The Board shall not grant such order until satisfied Idem. that its orders and directions have been carried out, and that this section has been complied with.

(6) The Board may order the adoption and use at any such crossing or junction, at rail levels, of such interlocking switch, derailing device, signal system, equipment, appliances and materials, as in the opinion of the Board will render it safe for engines and trains to pass over the crossing or junction without being brought to a stop. R.S.O. 1937, c. 259, s. 129. Safety appliances on level crossings.

130.—(1) Where the lines or tracks of one railway are intersected or crossed by those of another, or upon any application for leave to make any intersection or crossing, or in any case in which the tracks or lines of two different railways run through or into the same city, town or village, the Board may, upon the application of one of the companies, or of a municipal corporation or other public body, or of any person interested, order that the lines or tracks of such railways shall be so connected at or near the point of intersection or crossing, or in or near such city, town or village, as to admit of the safe and convenient transfer or passing of engines, cars and trains from the tracks or lines of one railway to those Connections of intersecting railway lines.

of another, and that such connection shall be maintained and used.

Terms and costs.

(2) In and by the order for the connection, or from time to time subsequently, the Board may determine by what company or companies, or other corporations or persons, and in what proportions, the cost of making and maintaining the connection shall be borne, and upon what terms traffic shall be thereby transferred from the lines of one railway to those of another. R.S.O. 1937, c. 259, s. 130.

Case of intersection with a railway authorized by Parliament,

131.—(1) Where the lines or tracks of any railway, the construction or operation of which is authorized by the Legislature, are intersected or crossed by those of a railway, the construction or operation of which is authorized by the Parliament of Canada, or in any case in which the lines or tracks of any two such railways run through or into the same city, town or village, and it is desired by one of the companies or by any municipal corporation or other public body, or any person interested, that the lines or tracks of such railways should be connected, so as to admit of the safe and convenient transfer of engines and trains from the lines or tracks of one railway to those of another, and for the reasonable receiving, forwarding, delivering, and interswitching of traffic between such railways, the following proceedings may be had and taken,

application to Board and to Dominion Board;

(a) either of such companies, or any municipal corporation or other public body, or any person interested, may file with the secretary, and with the secretary of the Board of Transport Commissioners for Canada, an application for an order that such connection should be required to be made together with evidence of service of such application upon the railway companies interested or affected, and where the application is not made by the municipal corporation, upon the head of the municipal corporation of the municipality within which the proposed connection is to be made;

joint order of boards;

(b) after the receipt of the application, the Board, and the Board of Transport Commissioners for Canada, may, by joint session or conference, in conformity with the practice to be established by them, hear and determine the application, and may order that the lines and tracks of such railways shall be so connected at or near the point of intersection, or in or near such city, town or village, upon such terms and conditions and subject to such plans as they may deem proper;

- (c) the chairman of the Board, and the chairman of the Board of Transport Commissioners for Canada, may make rules of procedure and practice covering the making of such applications and the hearing and disposition thereof, and may vary, alter or rescind the rules from time to time; power to make rules governing such applications:
- (d) the chairman of the Board, and the chairman of the Board of Transport Commissioners for Canada, may from time to time assign or appoint from each board the members comprising the joint board that may be required to sit for the hearing and determining of such applications as they arise; membership of joint Board:
- (e) the order aforesaid may be made a rule of the Exchequer Court of Canada, and may be enforced in like manner as a rule, order or decree of such court. order may be made rule of court.

(2) "Railway" for the purposes of this section includes a steam or electric railway, street railway, tramway and incline railway. R.S.O. 1937, c. 259, c. 131. Interpretation.

Mines and Minerals

132. The company shall not, without the authority of the Board, locate the line of its proposed railway or construct the line or any portion thereof so as to obstruct or interfere with or injuriously affect the working of or the access or adit to any mine then open, or for the opening of which preparations are, at the time of the location, being lawfully and openly made. R.S.O. 1937, c. 259, s. 132. Mines to be protected.

133.—(1) The company shall not, unless the same have been expressly purchased, be entitled to any mines, ores, metals, coal, slate, mineral oils, gas or other minerals in or under any land purchased by it, or taken by it under any compulsory powers given it by this Act, except only such parts thereof as are necessary to be dug, carried away or used in the construction of the works. Company not entitled to minerals.

(2) All such mines and minerals, except as provided by subsection 1, shall be deemed to be excepted from the conveyance of such land, unless they have been expressly named therein and conveyed thereby. R.S.O. 1937, c. 259, s. 133. Not included in conveyance.

134.—(1) No owner, lessee or occupier of any such mines or minerals lying under the railway or any of the works connected therewith, or within forty yards therefrom, shall work the same until leave therefor has been obtained from the Board. Prohibition of mining within 40 yards of railway.

Application
to Board.

(2) Upon any application to the Board for leave to work any such mines or minerals the applicant shall submit a plan and profile of the portion of the railway to be affected thereby, and of the mining works or plant affecting the railway proposed to be constructed or operated, giving all reasonable and necessary information and details as to the extent and character of the same.

Terms for
protection of
the public.

(3) The Board may grant the application upon such terms and conditions for the protection and safety of the public as the Board deems expedient, and may order that such other works be executed, or measures taken, as under the circumstances appear to the Board best adapted to remove or diminish the danger arising or likely to arise from the mining operations. R.S.O. 1937, c. 259, s. 134.

Compensa-
tion of
mine-owner
for loss
through
severance
of mine.

135. The company shall, from time to time, pay to the owner, lessee or occupier of any such mines such compensation as the Board shall order to be paid to such owner, lessee or occupier for and on account of any severance of the land lying over the mines by the railway, or of the working of the mines being prevented, stopped or interrupted, or of the mines being worked in such manner and under such restrictions as not to prejudice or injure the railway, and also for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway. R.S.O. 1937, c. 259, s. 135.

Power of
company to
enter mines.

136. If necessary, in order to ascertain whether any such mines are being worked or have been worked so as to damage the railway or works or in such manner as to be detrimental to the safety of the public using the railway or of the tracks and trains of the company, the company with the written permission and authorization of the Board, after giving twenty-four hours' notice in writing, may enter upon any lands through or near which the railway passes wherein any such mines are being worked, and to enter into and return from any such mines or the works connected therewith, and for that purpose the company may make use of any apparatus of such mines, and use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked. R.S.O. 1937, c. 259, s. 136.

Penalty for
refusing
company
access to
mines.

137. If the owner, lessee or occupier of any such mine refuses to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall, for every such refusal, forfeit to the company a sum not exceeding \$100. R.S.O. 1937, c. 259, s. 137.

Prevention of Fire

138. The company shall at all times maintain and keep its right-of-way free from dead or dry grass, weeds, and other unnecessary flammable matter. R.S.O. 1937, c. 259, s. 138. Removing flammable matter.

139.—(1) Whenever damage is caused to any property by a fire started by any railway locomotive the company making use of the locomotive, whether guilty of negligence or not, shall be liable for the damage, but if it is shown that the company has used modern and efficient appliances, and has not otherwise been guilty of any negligence, the total amount of compensation recoverable from the company under this section in respect of any one or more claims for damage from a fire or fires started by the same locomotive and upon the same occasion, shall not exceed \$5,000. Liability for fire caused by locomotive.

(2) If there is any insurance existing on the property destroyed or damaged the total amount of damages sustained by a claimant shall be reduced by the amount accepted or recovered by or for the benefit of the claimant in respect of the insurance. Reduction of damages where insurance.

(3) No action shall lie against the company by reason of anything in any policy of insurance or by reason of payment of any money thereunder. Railway and insurance contract.

(4) The limitation of one year prescribed by section 267 shall run from the date of final judgment in any action brought by the assured to recover such insurance money, or, in the case of settlement, from the date of the receipt of such money by the assured. Limitation.

(5) The compensation, in case the total amount recovered therefor is less than the claims established, shall be apportioned amongst the persons who suffered the loss, as the court or judge may determine. Apportionment of compensation.

(6) The company shall have an insurable interest in all property upon or along its route for which it may be held liable to compensate the owners for loss or damage by fire caused by a railway locomotive, and may procure insurance thereon on its own behalf. R.S.O. 1937, c. 259, s. 139. Insurable interest in property.

140. The Board may order, upon such terms and conditions as it deems expedient, that fire guards be established and maintained by the company along the route of its railway, and upon any land of the Crown or of any person lying along such route, and, subject to the terms and conditions of any such order, the company may at all times enter into and upon Powers of Board as to fire guards.

any such land for the purpose of establishing and maintaining fire guards thereon, and freeing from dead or dry grass, weeds and other unnecessary flammable matter, the land between the fire guards and the line of railway. R.S.O. 1937, c. 259, s. 140.

Limitation of Time for Construction

Time for construction limited.

141. If the construction of the railway, street railway, or incline railway is not commenced, and fifteen per cent of the amount of the capital stock is not expended thereon, within two years after the passing of the special Act, or in case of a railway other than a street railway, if the railway is not finished and put in operation within five years from the passing of the special Act, the powers granted by it or by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted. R.S.O. 1937, c. 259, s. 141.

Use of Steam During Construction

Electric companies may use steam for construction.

142. A company while constructing a line of railway to be operated by electricity on a right-of-way owned by the company may use steam as a motive power during the construction and at other times for construction purposes. R.S.O. 1937, c. 259, s. 142.

Contracts for Construction

Contracts for construction of line, etc.

143. The company may contract with any individual, corporation or association of individuals for the construction or equipment of the railway or any part thereof, including or excluding the purchase of right-of-way, and may pay therefor, either in whole or in part, in cash or in bonds, or in paid-up stock of the company, and may pay or agree to pay in such paid-up stocks or bonds such sums as it may deem expedient to engineers, or for the right-of-way, or material, plant or rolling stock, and also for the services of the promoters or other persons who may be employed by the directors for the purpose of assisting them and furthering the undertaking or purchasing the right-of-way, material, plant or rolling stock; but no such contract shall be of any force or validity unless first authorized by resolution passed by the votes of the shareholders, in person or by proxy, representing two-thirds in value of the whole amount paid up of the total capital stock of the company then issued and outstanding at a general meeting of the shareholders specially called for the purpose of considering such matters, and the stock so acquired by any person shall for all purposes be deemed to be paid up in cash. R.S.O. 1937, c. 259, s. 143.

OPERATION AND SERVICE

Running of Trains

144. All regular trains shall be started and run as nearly ^{Regular} as practicable at regular hours fixed by public notice. R.S.O. ^{scheduled.} 1937, c. 259, s. 144.

145.—(1) Every company shall place a blackboard in a ^{Notice} conspicuous place over the platform of each station of the ^{board at} company at which there is a telegraph or telephone office, and when any passenger train or car is overdue at any such station according to the time-table of the company, the station agent or person in charge at the station shall write, or cause to be written, with white chalk on the blackboard a notice stating, to the best of his knowledge and belief, the time when the overdue train or car may be expected to reach the station. ^{stations.}

(2) If there is any further change in the expected time of ^{Further} arrival the station agent or person in charge of the station shall ^{changes.} write, or cause to be written, on the blackboard in like manner a fresh notice stating, to the best of his knowledge and belief, the time when the overdue train or car may then be expected to reach the station.

(3) Every such company, station agent or person in charge ^{Penalty for} at any such station shall be guilty of an offence and upon ^{omission.} summary conviction shall be liable to a penalty of not more than \$5 for every wilful neglect, omission or refusal to obey the provisions of this section. R.S.O. 1937, c. 259, s. 145.

146.—(1) The company shall,

^{Accommo-}
^{dation.}

(a) furnish, at the place of starting, and at the junction of the railway with other railways, and at all stopping places established for such purpose, adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage upon the railway;

(b) furnish adequate and suitable accommodation for the carrying, unloading, and delivering of all such traffic;

(c) without delay, and with due care and diligence, receive, carry, and deliver all such traffic; and

(d) furnish and use all proper appliances, accommodation and means necessary for receiving, loading, carrying, unloading and delivering such traffic.

(2) Such adequate and suitable accommodation shall ^{Including} include reasonable facilities for the junction of private sidings ^{accommo-} or private branch railways with any railway belonging to or ^{dation for} ^{private} ^{sidings.}

worked by the company and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways, together with the placing of cars and moving them upon and from such private sidings and private branch railways.

Powers of Board.

(3) If in any case such accommodation is not, in the opinion of the Board, furnished by the company, the Board may order the company to furnish the same within such time or during such period as the Board deems expedient, having regard to all proper interests, or may prohibit or limit the use, either generally or upon any specified railway or part thereof, of any engines, locomotives, cars, rolling stock, apparatus, machinery, or devices, or any class or kind thereof, not equipped as required by this Act, or by any orders or regulations of the Board made within its jurisdiction under this Act.

Payment of tolls.

(4) Such traffic shall be taken, carried to and from, and delivered at the places aforesaid on the due payment of the toll lawfully payable therefor.

Regulation of time to allow connections between railways for passengers and mails.

(5) Where a company's railway crosses or joins or approaches, in the opinion of the Board, sufficiently near to any other railway upon which passengers or mails are transported, the Board may order the company to so regulate the running of its trains carrying passengers or mails, and the places and times of stopping them, as to afford reasonable opportunity for the transfer of passengers and mails between its railway and such other railway, and may order the company to furnish reasonable facilities and accommodation for such purpose.

Specific works may be ordered by Board.

(6) For the purposes of this section the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company, or companies, or by railway companies generally.

Right of action on default.

(7) Every person aggrieved by any neglect or refusal of the company to comply with this section shall, subject to this Act, have an action therefor against the company, from which action the company shall not be relieved by any notice, condition or declaration, if the damage arises from any negligence or omission of the company or of its servants.

Demurrage.

(8) The Board may make regulations, applying generally or to any particular railway or any portion thereof, imposing charges for default or delay by any company in furnishing accommodation, appliances, or means as aforesaid, or in receiving, loading, carrying, unloading or delivering traffic,

and may enforce payment of such charges by companies to any person injuriously affected by such default or delay, and any amount so received by any person shall be deducted from the damages recoverable or recovered by such person for such default or delay, and the Board may, by order or regulation, determine what circumstances shall exempt any company from payment of such charges. R.S.O. 1937, c. 259, s. 146.

147. Every employee of the company employed in a passenger train or at a passenger station shall wear upon his hat or cap a badge indicating his office, and he shall not, without the badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property. R.S.O. 1937, c. 259, s. 147. Employees in passenger trains or stations to wear badges.

148.—(1) The fare or toll shall be due and payable by every passenger on entering the car or other conveyance, and every passenger who refuses to pay his fare may, by the conductor of the train and the train servants of the company, be expelled from and put out of the train with his baggage, at any usual stopping place or near any dwelling house, as the conductor elects, the conductor first stopping the train and using no unnecessary force. Expulsion on refusal to pay fare.

(2) Any passenger upon a car of an electric or street railway who refuses to pay his fare shall also be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$10. R.S.O. 1937, c. 259, s. 148. Refusal to pay fare.

149. No person injured while on the platform of a car or on any baggage or freight car in violation of the printed regulations posted up at the time shall have any claim in respect of the injury, if room inside of the passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time. R.S.O. 1937, c. 259, s. 149. No claim for injuries in certain cases.

150.—(1) No passenger train shall have any freight, merchandise, or lumber car in the rear of any passenger car in which any passenger is carried. Position of passenger cars.

(2) Every officer or employee of a company who directs, or knowingly permits, any freight, merchandise or lumber car to be so placed shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$10. R.S.O. 1937, c. 259, s. 150. Penalty for violation.

151.—(1) A check shall be affixed by the company to every parcel of baggage having a handle, loop or suitable means for attaching a check thereupon, delivered by a passenger to the Baggage checks.

company for transport, and a duplicate of the check shall be given to the passenger delivering the same.

Excess
baggage.

(2) In the case of excess baggage the company shall be entitled to collect from the passenger, before affixing the check, the toll authorized under this Act.

Liability for
refusing to
check
baggage.

(3) If the check is improperly refused on demand the company shall be liable to the passenger for the sum of \$8 recoverable by action.

Saving.

(4) This section shall not apply to any train or car operated by electricity unless the Board so orders. R.S.O. 1937, c. 259, s. 151.

Transporta-
tion of
dangerous
goods.

152.—(1) No passenger shall carry, nor shall the company be required to carry upon its railway gunpowder, dynamite, nitro-glycerine or any other goods which are of a dangerous or explosive nature.

Nature must
be marked
on outside.

(2) Every person who sends by the railway any such goods shall distinctly mark their nature on the outside of the package containing the same and otherwise give notice in writing to the station agent or employee of the company whose duty it is to receive such goods and to whom the same are delivered.

Penalty.

(3) Every person who contravenes this section shall forfeit to the company the sum of \$500 for every contravention. R.S.O. 1937, c. 259, s. 152.

Company
may refuse
to carry.

153.—(1) The company may refuse to take any package or parcel which it suspects contains any such goods of a dangerous nature, or may require the same to be opened to ascertain the fact.

Carriage of
such goods.

(2) The company shall not carry any such goods of a dangerous nature except in cars specially designated for that purpose, on each side of each of which shall plainly appear in large letters the words "Dangerous Explosives".

Penalty.

(3) For each neglect to comply with the provisions of this section the company shall incur a penalty of \$500. R.S.O. 1937, c. 259, s. 153.

Crossing Draw or Swing Bridge

Trains to
stop at
swing
bridges.

154.—(1) When any railway passes over any navigable water or canal by means of a draw or swing bridge which is subject to be opened for navigation every train shall, before coming on or crossing over the bridge, be brought to a full stop and shall not thereafter proceed until a proper signal has been given for that purpose.

(2) In default the company shall incur a penalty not exceeding \$400. Penalty.

(3) Every employee who fails to comply with the rules of the company made for carrying this section into effect shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$400, or to imprisonment for a term of not more than six months, or both. Employee.

(4) Wherever there is in use on any railway at any such bridge an interlocking switch and signal system, or other device which, in the opinion of the Board, renders it safe to permit engines and trains to pass over the bridge without being brought to a stop the Board may, by order, permit engines and trains to pass over the bridge without stopping under such regulations as to speed and other matters as the Board deems proper. R.S.O. 1937, c. 259, s. 154. Where safety devices installed.

Crossing Highways

155.—(1) When any train is approaching a highway crossing at rail level the engine whistle shall be sounded at least eighty rods before reaching the crossing, and the bell shall be rung continuously from the time of sounding the whistle until the engine has crossed the highway. Use of bell and whistle.

(2) In the case of a car or locomotive operated by electricity an air whistle shall be blown or the gong sounded continuously for eighty yards before reaching such crossing. Electric cars or locomotives.

(3) The company shall for each neglect to comply with the provisions of this section be guilty of an offence and on summary conviction shall be liable to a penalty of \$8 and shall also be liable for all damage sustained by any person by reason of such neglect. Penalty.

(4) Every employee of the company who neglects to comply with this section shall be guilty of an offence and on summary conviction shall be liable to a like penalty. Penalty on employee.

(5) This section shall not apply to trains approaching such a crossing within the limits of a city or town where a municipal by-law is in force prohibiting the sounding of the whistle or gong or the ringing of the bell. R.S.O. 1937, c. 259, s. 155. Exception.

156.—(1) No train shall pass over any crossing where two main lines of railway or the main tracks of any branch lines cross each other at rail level, whether they are owned by different companies or the same company, until a proper signal has been received by the conductor, engineer or motorman in charge of such train, engine or motor car from a competent person of watchman in charge of the crossing that the way is clear. Signal at rail level crossings.

Electric
railway
crossings.

(2) In the case of an electric car crossing any railway track at rail level, if there is no competent person or watchman in charge of the crossing, it shall be the duty of the conductor, before crossing and before giving the signal to the motorman that the way is clear and to proceed, to go forward and see that the track to be crossed is clear.

Stoppage
of trains
at level
crossings.

(3) Every train shall, before it passes over any such crossing, be brought to a full stop; but whenever there is in use at any such crossing an interlocking switch and signal system or other device which, in the opinion of the Board, renders it safe to permit trains to pass over such crossing without being brought to a stop the Board may, by order, permit such trains to pass over such crossing without stopping under such regulations as to speed and other matters, as the Board deems proper.

Where
Dominion
Board has
made order.

(4) Nothing in this section shall apply to a case in which the Board of Transport Commissioners of Canada has jurisdiction to make an order and has made an order for the protection of such crossing. R.S.O. 1937, c. 259, s. 156.

Rate of
speed in
unfenced
portions
of cities.

157.—(1) No train shall pass in or through any thickly peopled portion of any city, town or village at a speed greater than ten miles an hour unless the track is fenced or properly protected in the manner prescribed by this Act or unless permission is given by a regulation or order of the Board.

Board may
limit.

(2) The Board may limit such speed in any case to any rate which it deems expedient.

Rate of
speed at
rail level
crossings
in cities,
towns and
villages.

(3) Subject to subsection 5 no train shall pass over any highway crossing at rail level in any thickly peopled portion of any city, town or village at a greater speed than ten miles an hour unless the crossing is constructed and thereafter maintained and protected in accordance with the orders, regulations and directions of the Board in force with respect to such crossing, or unless permission is given by a regulation or order of the Board.

Board may
direct.

(4) The Board may from time to time fix the speed in any case at any rate that it deems proper.

Rate of
speed at
certain
crossings.

(5) No train shall pass over any highway crossing at rail level at a greater speed than ten miles an hour, if at the crossing an accident has happened subsequent to the 1st day of January, 1905, by a moving train causing bodily injury or death to a person using the crossing, unless and until the crossing is protected to the satisfaction of the Board, and no train shall pass over any highway crossing at rail level at a greater speed than ten miles an hour in respect of which cross-

ing an order of the Board has been made to provide protection for the safety and convenience of the public and which order has not been complied with. R.S.O. 1937, c. 259, s. 157.

158.—(1) Whenever in any city, town or village any train is passing over or along a highway at rail level and is not headed by an engine or electric car moving forward in the ordinary manner, the company shall station on that part of the train, or of the tender if that is in front, which is then foremost a person who shall warn persons standing on, or crossing, or about to cross, the track of the railway. Trains or cars moving reversely in cities, etc.

(2) For every contravention of any of the provisions of this section, or of any of sections 156 and 157, the company shall be guilty of an offence and upon summary conviction shall be liable to a penalty of \$100. R.S.O. 1937, c. 259, s. 158. Penalty.

159.—(1) Whenever any railway crosses any highway at rail level the company shall not, nor shall its officers, agents or employees, wilfully permit any engine, tender or car, or any portion thereof, to stand on any part of the highway for a longer period than five minutes at one time, or in shunting to obstruct public traffic for a longer period than five minutes at any one time, or for any less period which the Board may prescribe. Trains must not stand on rail level crossings more than five minutes.

(2) For every contravention of this section every such officer, agent or employee who has directly under or subject to his control, management or direction any engine, tender or car which, or any portion of which, is allowed to stand on such highway longer than the time specified in this section shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$50, and the company shall also for each such violation be liable to a like penalty, but if such alleged violation is, in the opinion of the justice, excusable the prosecution for the penalty may be dismissed, and the costs shall be in his discretion. R.S.O. 1937, c. 259, s. 159. Penalty.

Sleeping and Parlour Cars

160.—(1) The company may contract with any person for the hauling, by the special or regular trains of the company, of the parlour, drawing-room or sleeping cars of such person in which extra accommodation is furnished. Sleeping and parlour cars.

(2) Such person may charge for the carriage and transportation of persons and property therein such reasonable compensation as may be fixed by the Board for such extra accommodation, in addition to the fare and charges for the carriage and transportation of passengers and property in the ordinary cars of the company. May charge for extra accommodation.

Liability of company.

(3) The company so contracting shall be liable in the same way and to the same extent as if the cars were owned by it.

Other obligations not affected.

(4) Nothing in this section shall relieve the company from the obligation to furnish sufficient ordinary cars for the reasonable accommodation of the travelling public. R.S.O. 1937, c. 259, s. 160.

Stations

Stations.

161.—(1) The company shall, when thereto directed by order of the Board, maintain and operate stations, with such accommodation or facilities in connection therewith as are defined by the Board, at such points on the railway as are designated in the order.

Accommodation.

(2) Every station of the company shall be erected, operated and maintained with good and sufficient accommodation and facilities for traffic.

Approval of location.

(3) Before the company proceeds to erect a station upon its railway the location thereof shall be approved of by the Board.

No discontinuance without leave.

(4) No station established by a company for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the Board.

Order by Board upon complaint as to station accommodation.

(5) Upon the written complaint of ten or more persons interested setting forth that any of the provisions of this Act as to station accommodation or stopping places are being violated by the company, the Board shall investigate the complaint forthwith, and if upon the investigation it is found that such violation exists the Board shall issue an order to the company setting forth the nature of the improvements required and shall direct that the improvements be completed within such time as the Board may deem proper.

Right of action.

(6) Every person aggrieved by any neglect or refusal in the premises shall, subject to this Act, have an action therefor against the company from which the company shall not be relieved by any notice, condition or declaration or any agreement to the contrary if the damage arises from any negligence or omission of the company or of its servants. R.S.O. 1937, c. 259, s. 161.

MUNICIPAL BONUSES

When head of municipality to be *ex officio* a director.

162.—(1) Where a municipal corporation grants a bonus or makes a gift to the company to the amount of \$20,000 or upwards, or holds stock in the company to that amount, the head of the municipality shall be *ex officio* one of the directors of the company, in addition to the number of directors

authorized by the special Act, and shall have the same rights, powers and duties as any of the directors of the company.

(2) A municipal corporation owning or having a controlling interest in the capital stock of a railway, electric railway, street railway or incline railway shall not dispose of the railway or its stock so as to deprive it of such controlling interest except under the authority of a by-law passed with the assent of the municipal electors in accordance with *The Municipal Act*, R.S.O. 1937, c. 259, s. 162.

Municipal corporation not to part with control without assent of electors.

Rev. Stat., c. 243.

BY-LAWS, RULES AND REGULATIONS

163. The company may, subject to the provisions and restrictions in this and in the special Act, make by-laws, rules or regulations respecting,

Powers of company respecting,

- (a) the mode by which, and the speed at which, any rolling stock used on the railway is to be moved; speed;
- (b) the hours of the arrival and departure of trains; timetables;
- (c) the loading and unloading of cars, and the weights which they are respectively to carry; loads;
- (d) the receipt and delivery of traffic; traffic;
- (e) the smoking of tobacco, expectorating, and the commission of any nuisance in or upon trains, stations or other premises occupied by the company; nuisances;
- (f) the travelling upon or the using or working of the railway; traffic and operation;
- (g) the employment and conduct of the officers and employees of the company; employees;
- (h) the due management of the affairs of the company; management; and
- (i) the number of passengers to be allowed in cars, their mode of entrance or exit, and the portion of the car or the class of car to be occupied by them. passengers.

R.S.O. 1937, c. 259, s. 163.

164. The company may, for better enforcing the observance of any such by-law, rule or regulation, prescribe a penalty of not more than \$25 recoverable upon summary conviction for any contravention thereof by an officer or employee of the company. R.S.O. 1937, c. 259, s. 164.

Penalty for violation of by-laws.

165. All by-laws, rules and regulations, whether made by the directors or the company, shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common

Form, etc. of by-laws.

seal of the company and be kept in the office of the company. R.S.O. 1937, c. 259, s. 165.

When approval of Board required.

166. All such by-laws, rules and regulations, except such as are of a private or domestic nature and do not affect the public generally or impose penalties, shall be submitted to the Board for approval, and the Board may approve of them or any of them, or any part thereof, and may, from time to time, rescind its approval, and until so approved, or after such approval has been rescinded, no such by-law, rule or regulation shall have any force or effect. R.S.O. 1937, c. 259, s. 166.

Binding when approved.

167. Such by-laws, rules and regulations while so approved shall be binding upon, and observed by, all persons, and shall be sufficient to justify all persons acting thereunder. R.S.O. 1937, c. 259, s. 167.

Publication of by-laws, etc., as regards public.

168.—(1) A printed copy of so much of any by-law, rule or regulation as affects any person, other than the shareholders, or the officers or employees of the company, shall be openly affixed and kept affixed to a conspicuous part of every station belonging to the company, so as to give public notice thereof to the persons interested therein or affected thereby.

As regards officers or employees.

(2) A printed copy of so much of any by-law, rule or regulation as relates to the conduct of or affects the officers or employees of the company shall be given to every officer and employee of the company thereby affected. R.S.O. 1937, c. 259, s. 168.

Summary interference in certain cases.

169. If the contravention or non-observance of any by-law, rule or regulation is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using reasonable force, if necessary, to prevent such violation, or to enforce observance, without prejudice to any penalty in respect of such violation or non-observance. R.S.O. 1937, c. 259, s. 169.

Evidence of by-laws.

170. A copy of any by-law, rule or regulation, certified as correct by the president, secretary or other executive officer of the company and bearing the seal of the company, shall be evidence thereof in any court. R.S.O. 1937, c. 259, s. 170.

Of documents authorized.

171. Every written or printed document purporting to have been issued or authorized by a company, or any officer, agent or employee of a company, or any other person or company for or on its behalf, shall, as against the company, be

received as *prima facie* evidence of the issue of the document by the company, and of the contents thereof, without any further proof than the mere production of the document. R.S.O. 1937, c. 259, s. 171.

172. All by-laws, rules and regulations of a company operating its railway by electricity partly or wholly on a highway or of a street railway company shall be subject to any agreement between such company and the municipal corporation owning or maintaining the highway. R.S.O. 1937, c. 259, s. 172. By-laws, etc., to be subject to agreements with municipalities.

INSPECTION

173.—(1) Inspecting engineers may be appointed by the Board, subject to the approval of the Lieutenant-Governor in Council. Appointment.

(2) It shall be the duty of every inspecting engineer, upon being directed by the Board, to inspect any railway or any branch line, siding or portion thereof whether constructed or in the course of construction, to examine the stations, rolling stock, rails, road bed, right-of-way, tracks, bridges, tunnels, trestles, viaducts, drainage, culverts, railway crossings and junctions, highway and farm crossings, fences, gates and cattle-guards, telegraph, telephone or power or other lines of electricity, and all other buildings, works, structures, equipment, apparatus, and appliances thereon, or to be constructed or used thereon, or such part thereof as the Board may direct, and forthwith to report fully thereon in writing to the Board. Duties.

(3) Every inspecting engineer shall have the same powers with regard to any such inspection as are conferred on an inspecting engineer by section 55 of *The Ontario Municipal Board Act*. Powers. Rev. Stat., c. 262.

(4) Every company, and the officers and directors thereof, shall afford to any inspecting engineer such information as is within their knowledge and power in all matters inquired into by him, and shall submit to him all plans, specifications, drawings and documents relating to the construction, repair or state of repair of the railway or any portion thereof. Duties of company to afford information.

(5) Every inspecting engineer shall have the right, while engaged in the business of such inspection, to travel without charge on any of the ordinary passenger trains running on the railway, and to use without charge the telegraph and telephone wires and machinery in the offices of, or under the control of, the company. Inspecting engineers may travel free.

(6) The operators or officers employed in the telegraph or telephone offices of or under the control of the company shall, Transmission of telegrams, etc.

without unnecessary delay, obey all orders of any inspecting engineer for transmitting messages, and every such operator or officer who neglects or refuses so to do shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$40.

Proof of
engineer's
authority.

(7) The production of his appointment in writing, signed by the chairman of the Board, or the secretary, shall be sufficient evidence of the authority of any inspecting engineer.

Penalty for
obstructing
inspecting
engineers.

(8) Every person who wilfully obstructs any inspecting engineer in the execution of his duty shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$40. R.S.O. 1937, c. 259, s. 173.

Leave of
Board before
opening.

174.—(1) No railway or portion thereof shall be opened for the carriage of traffic, other than for the purposes of the construction of the railway by the company, until leave therefor has been obtained from the Board as hereinafter provided.

Application
to Board and
material.

(2) When the company desires to open its railway, or any portion thereof, it shall make an application to the Board for authority therefor, supported by affidavit of its president, secretary, engineer or one of its directors, to the satisfaction of the Board, stating that the railway, or portion thereof, is, in his opinion, sufficiently completed for the safe carriage of traffic and ready for inspection.

Inspection.

(3) Before granting the application the Board shall direct an inspecting engineer to examine the railway, or portion thereof, proposed to be opened.

Order of
Board when
opening
reported to
be safe.

(4) If the inspecting engineer reports to the Board after making such examination that in his opinion the opening of the railway or portion thereof for the carriage of traffic will be reasonably free from danger to the public using the same, the Board may make an order granting the application in whole or in part, and may name the time therein for the opening of the railway or portion thereof, and thereupon the railway or such portion thereof as is authorized by the Board may be opened for traffic in accordance with the order.

When open-
ing reported
dangerous.

(5) If the inspecting engineer reports to the Board that in his opinion the opening of the railway or portion thereof would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the construction or equipment of the railway or portion thereof, he shall state in his report the grounds for his opinion, and the company shall be entitled to notice thereof, and shall be served with a copy of the report, and the Board may refuse the application in whole or

in part, or may direct a further or other inspection and report to be made.

(6) If thereafter, upon such further or other inspection or Provision for further inspection. upon a new application under this section, the inspecting engineer reports that the railway or portion thereof may be opened without danger to the public the Board may make an order granting the application in whole or in part, and may name the time therein for the opening of the railway or the Order for opening. portion thereof, and thereupon the railway or such portion thereof as is authorized by the Board may be opened for traffic in accordance with the order.

(7) The Board, upon being satisfied that public convenience Leave to carry freight traffic. will be served thereby, may, after obtaining a report of an inspecting engineer, allow the company to carry freight traffic over any portion of the railway not opened for the carriage of traffic in accordance with the preceding provisions of this section.

(8) If any railway or portion thereof is opened contrary Penalty for irregular opening. to this section the company, or person to whom the railway belongs, shall forfeit to the Crown the sum of \$200 for each day on which the railway or portion thereof is or continues open without such leave. R.S.O. 1937, c. 259, s. 174.

175.—(1) Whenever any complaint is made to the Board, When railway out of repair. or the Board receives information, that any railway or any portion thereof is dangerous to the public using the same from want of renewal or repair, or insufficient or erroneous construction, or from any other cause, or whenever circumstances arise which in its opinion render it expedient, the Board may direct an inspecting engineer to examine the railway or any portion thereof.

(2) The Board may, upon the report of the inspecting Board may order repairs. engineer, order any repairs, renewals, reconstruction, alteration or new work, materials or equipment to be made, done, or furnished by the company, upon, in addition to or substitution for any portion of the railway which may, from such report, appear to the Board necessary or proper, and may order that until such repairs, renewals, reconstruction, alteration, and work, materials or equipment are made, done and furnished to its satisfaction no portion of the railway, in respect of which the order is made, shall be used, or used otherwise than subject to such restrictions, conditions and terms as the Board may impose in the order.

(3) The Board may, by such order, condemn and thereby Rolling stock may be condemned. forbid further use of any rolling stock which, from such report, it may consider unfit to repair or use.

Penalty for
non-com-
pliance.

(4) If, after notice of any such order the company uses any rolling stock which has been so condemned by the Board, or disobeys, or fails to comply with any order of the Board made under this section, the company shall incur a penalty of \$2,000.

Aiding and
abetting.

(5) Every person who wilfully and knowingly aids or abets any such contravention shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not less than \$20 and not more than \$200. R.S.O. 1937, c. 259, s. 175.

Inspecting
engineer
may forbid
operation.

176.—(1) If in the opinion of an inspecting engineer it is dangerous for trains to pass over any railway or any portion thereof until alterations, substitutions or repairs are made thereon, or that any of the rolling stock should be run or used, he may, by notice in writing,

(a) forthwith forbid the running of any train over the railway or portion thereof; or

(b) require that the same be run only at such times, under such conditions and with such precautions as he by such notice specifies; and

(c) forbid the running or using of any such rolling stock.

What notice
shall state.

(2) The notice shall state the reasons for the opinion of the inspecting engineer, and distinctly point out the defects or the nature of the danger to be apprehended.

Service of
notice.

(3) The notice may be served upon the company owning, running, or using the railway or rolling stock, or upon any officer having the management or control of the running of trains upon the railway, or the management or control of the rolling stock.

Action of
Board.

(4) The inspecting engineer shall forthwith report the notice to the Board, which may either confirm, modify or disallow the act or order of the engineer.

Notice
thereof.

(5) Notice of such confirmation, modification or disallowance shall be given to the company.

Penalty for
non-com-
pliance.

(6) If any company refuses or neglects to comply with any order of the Board made under this section, the company shall, for each such refusal or neglect, forfeit to the Crown the sum of \$2,000.

Aiding or
abetting.

(7) Every person who wilfully and knowingly aids or abets any such disobedience or non-compliance shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not less than \$20 and not more than \$200.

(8) No prosecution for any penalty under this section shall be instituted without the authority of the Board. No prosecution without leave of Board.
 R.S.O. 1937, c. 259, s. 176.

TOLLS

By-laws

177.—(1) The company or the directors of the company by by-law, or any officer of the company thereunto authorized by by-law of the company or directors, may from time to time prepare and issue tariffs of the tolls to be charged in respect of the railway owned or operated by the company, and may specify the persons to whom, the place where, and the manner in which the tolls shall be paid. By-laws authorizing tariffs of tolls.

(2) The tolls may be either for the whole or any particular portion of the railway. For whole or part.

(3) All such by-laws and tariffs shall be submitted to the Board for approval. Approval by Board.

(4) The Board may approve such by-laws and tariffs in whole or in part, or may change, alter or vary any of the provisions therein. In whole or in part or as varied.

(5) No tolls shall be charged by the company or by any person in respect of a railway or any traffic thereon until a by-law authorizing the preparation and issue of tariffs of such tolls has been approved by the Board, nor, unless otherwise authorized by this Act, until a tariff of such tolls has been filed with, and, where such approval is required under this Act, approved by the Board, nor shall any tolls be charged under any tariff or portion thereof disallowed by the Board, nor shall the company charge, levy or collect any toll or money for any service as a common carrier, except under this Act. No tolls to be charged until by-law approved by Board.

(6) The Board may, with respect to any tariff of tolls other than the passenger and freight tariffs hereinafter mentioned in this Act, make regulations fixing and determining the time when, the place where, and the manner in which the tariff shall be filed, published and kept open for public inspection. Publication of tariffs.
 R.S.O. 1937, c. 259, s. 177.

Express Tolls

178.—(1) All express tolls shall be subject to the approval of the Board. Approval of express tolls.

(2) The Board may disallow any express tariff or any portion thereof which it considers unjust or unreasonable and shall have and may exercise all the powers with respect Disallowance of express tolls.

to express tolls and such tariffs as it has or may exercise under this Act with respect to freight tolls and freight tariffs, and all the provisions of this Act relating to freight tolls and freight tariffs, in so far as such provisions are applicable and not inconsistent with the provisions of this section and sections 179 to 183, shall apply to express tolls and tariffs. R.S.O. 1937, c. 259, s. 178.

Tariff of
express
tolls.

179. Tariffs of such express tolls shall be filed with the Board and shall be in such form, size and style and give such information, particulars and details as the Board, from time to time, by regulation or by order in any particular case prescribes. R.S.O. 1937, c. 259, s. 179.

Goods not
to be carried
by express
unless tariff
in force.

180. No company shall carry or transport any goods by express, unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner hereinbefore provided, or, in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto, or in any case where the express toll applicable to such carriage or transport has been disallowed by the Board. R.S.O. 1937, c. 259, s. 180.

When tolls
not to be
charged.

181. No express toll shall be charged in respect of which there is default in such filing, or which is disallowed by the Board. R.S.O. 1937, c. 259, s. 181.

Board may
define
carriage by
express.

182. The Board may, by regulation prescribe or in any particular case, determine what is carriage or transportation of goods by express, or whether goods are carried or transported by express within the meaning of this Act. R.S.O. 1937, c. 259, s. 182.

Conditions
limiting
liability to
be approved
by Board.

183.—(1) No contract, condition, by-law, regulation, declaration or notice made or given by any company or any person or corporation charging express tolls impairing, restricting or limiting the liability of the company, person or corporation with respect to the collecting, receiving, caring for or handling of any goods for the purpose of sending, carrying or transporting them by express, or for or in connection with the sending, carrying, transporting or delivery by express of any goods, shall have any force or effect unless first approved by order or regulation of the Board.

Regulation
of carriage
by express.

(2) The Board may in any case or by regulation,

- (a) determine the extent to which the liability of such company, person or corporation may be so impaired, restricted or limited; and

- (b) prescribe the terms and conditions under which goods may be collected, received, cared for or handled for the purpose of sending, carrying or transporting them by express, or under which goods may be sent, carried, transported or delivered by express by any such company, person or corporation. R.S.O. 1937, c. 259, s. 183.

184.—(1) Every company and every person and corporation charging express tolls shall make an annual return to the Board of its capital, business and working expenditure, and such other information and particulars, including a statement of unclaimed goods, as the Board may require. Annual return by company.

(2) Such return shall be made in such form, covering such period, and at such time, and shall be published in such manner as the Board from time to time directs. R.S.O. 1937, c. 259, s. 184. Form of return.

185. Every company which carries or transports, and every officer or employee thereof who directs or knowingly permits to be carried or transported, any goods by express, Carrying by express without filing tariff, penalty.

- (a) unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner required by this Act; or
- (b) in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto; or
- (c) in any case where the express toll applicable to such carriage or transport has been disallowed by the Board,

shall be liable to a penalty not exceeding \$100 for each such offence. R.S.O. 1937, c. 259, s. 185.

Collection of Tolls

186.—(1) If the company pays the charges to which any goods which come into its possession are subject the company shall have the same lien for the amount thereof upon the goods as the person to whom the charges were originally due, and shall be subrogated in respect of the charges to his rights and remedies. Collecting back charges on goods.

(2) In case of refusal or neglect of payment on demand of any charges or any lawful tolls, or any part thereof, the same shall be recoverable in any court of competent jurisdiction. Proceedings for recovery.

(3) The company may, instead of proceeding by action for the recovery of such tolls, seize the goods for or in respect Seizure and detention of goods.

whereof the tolls are payable, and may detain the goods until payment thereof, and in the meantime the goods shall be at the risk of the owners thereof.

Sale of
goods to
recover
tolls.

(4) If the tolls are not paid within six weeks, and where the goods are perishable goods, if the tolls are not paid upon demand or if the goods are liable to perish while in the possession of the company by reason of delay in payment or taking delivery by the consignee, the company may advertise and sell the whole or any part of the goods, and out of the money arising from the sale retain the tolls payable and all reasonable charges and expenses of the seizure, detention and sale.

Surplus,
applica-
tion of.

(5) The company shall pay or deliver the surplus, if any, or such of the goods as remain unsold to the person entitled thereto.

Unclaimed
goods.

(6) If any goods remain in the possession of the company unclaimed for the space of twelve months the company may thereafter, and on giving public notice thereof by advertisement for six weeks in *The Ontario Gazette* and in such newspapers as it deems necessary, sell the goods by public auction at a time and place which shall be mentioned in the advertisement, and out of the proceeds thereof pay the tolls and all reasonable charges for storing, advertising and selling the goods.

Payment
of balance.

(7) The balance of the proceeds, if any, shall be kept by the company for a further period of three months to be paid over to the person entitled thereto.

When
Province
entitled.

(8) In default of the balance being claimed before the expiration of the period last aforesaid it shall be paid over to the Treasurer of Ontario to be applied to the general purposes of Ontario.

Limitation
of claims.

(9) The balance may be claimed by the person entitled thereto within six years of the date of the payment over. R.S.O. 1937, c. 259, s. 186.

Equality

Discrimina-
tion pro-
hibited.

187.—(1) All such tolls shall always, under substantially similar circumstances and conditions in respect of all traffic of the same description and carried in or upon like cars passing over the same portion of the line or railway, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise.

Idem.

(2) No reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any

particular person or company travelling upon or using the railway.

(3) The tolls for larger quantities, greater numbers or longer distances may be proportionately less than the tolls for smaller quantities or numbers, or shorter distances, if such tolls are, under substantially similar circumstances, charged equally to all persons. When tolls may be decreased.

(4) The company may make uniform special rates for the carriage of fruit, milk and other perishable products and commodities. Special rates for perishable goods.

(5) No toll shall be charged which unjustly discriminates between different localities. Unjust discrimination.

(6) The Board shall not approve or allow any toll which, for the like description of goods or for passengers carried under substantially similar circumstances and conditions in the same direction over the same line, is greater for a shorter than for a longer distance, within which the shorter distance is included, unless the Board is satisfied that, owing to competition, it is expedient to allow such toll. Long and short haul clause.

(7) The Board may declare that any places are competitive points within the meaning of this Act. Competitive points.

(8) No company shall, without leave therefor having been obtained from the Board, except in accordance with this Act, directly or indirectly, pool its freights or tolls with the freights or tolls of any other railway company or common carrier, or divide its earnings or any portion thereof with any other railway company or common carrier, or enter into any contract, arrangement, agreement, or combination to effect, or which may effect, any such result. R.S.O. 1937, c. 259, s. 187. Pooling prohibited.

Freight Classification and Tariffs

188.—(1) The tariff of tolls for freight traffic shall be subject to and governed by that classification which the Board may prescribe or authorize, and the Board shall endeavour to have such classification uniform throughout Ontario as far as may be, having due regard to all proper interests. Tariff subject to classification by Board.

(2) The Board may make any special regulations, terms and conditions in connection with such classification, and as to the carriage of any particular commodity or commodities mentioned therein, as to it may seem expedient. Special terms and conditions.

(3) The company may, from time to time, with the approval of the Board, and shall, when so directed by the Board, place any goods specified by the Board in any stated class, or remove them from any one class to any other higher class. Changes of class.

or lower class; but no goods shall be removed from a lower to a higher class until such notice as the Board determines has been given in *The Ontario Gazette*. R.S.O. 1937, c. 259, s. 188.

Form and particulars.

189. All tariff by-laws and tariffs of tolls shall be in such form, size and style, and give such information, particulars and details as the Board may, by regulation or in any case, prescribe. R.S.O. 1937, c. 259, s. 189.

Disallowance.

190.—(1) The Board may disallow any tariff or any portion thereof which it considers to be unjust or unreasonable, or contrary to this Act, and may require the company, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed.

Commencement.

(2) The Board may designate the date at which any tariff shall come into force.

Amendment.

(3) Any tariff in force, except standard tariffs hereinafter mentioned, may, subject to disallowance or change by the Board, be amended or supplemented by the company by tariffs in accordance with this Act.

Consolidation and re-issue.

(4) When any tariff has been amended or supplemented from time to time the Board may order that a consolidation and re-issue of the tariff be made by the company. R.S.O. 1937, c. 259, s. 190.

Fraction of a mile.

191.—(1) In all cases a fraction of a mile in the distance over which traffic is carried on the railway shall be considered as a whole mile.

Fraction of five pounds in weight.

(2) In estimating the weight of any goods in any one single shipment on which the toll amounts to more than the minimum, or "smalls" toll, any fraction of five pounds shall be waived by the company, and five or any fraction above five and up to ten pounds shall be deemed ten pounds.

Fraction of five cents.

(3) In estimating the tolls to be charged in passenger tariffs any fraction of five cents less than two and a half cents shall be waived by the company, and above two and a half cents and up to five cents shall be considered as five cents. R.S.O. 1937, c. 259, s. 191.

Division of freight tariffs.

192. The tariffs of tolls which the company is authorized to issue under this Act for the carriage of goods between points on the railway shall be divided into three classes, namely,

(a) the standard freight tariff;

(b) special freight tariffs; and

(c) competitive tariffs. R.S.O. 1937, c. 259, s. 192.

193.—(1) The standard freight tariff or tariffs, where the company is allowed by the Board more than one standard freight tariff, shall specify the maximum mileage tolls to be charged for each class of the freight classification for all distances covered by the company's railway. What standard freight tariff to specify.

(2) The distances may be expressed in blocks or groups, and the blocks or groups may include relatively greater distances for the longer than for the shorter hauls. Distances.

(3) The special freight tariffs shall specify the toll or tolls, lower than in the standard freight tariff, to be charged by the company for any particular commodity or commodities, or for each or any class or classes of the freight classification, or to or from a certain point or points on the railway, and greater tolls shall not be charged therein for a shorter than for a longer distance over the same line in the same direction, if the shorter distance is included in the longer. What special freight tariffs to specify.

(4) The competitive tariffs shall specify the toll or tolls lower than in the standard freight tariff, to be charged by the company for any class or classes of the freight classification, or for any commodity or commodities, to or from any specified point or points which the Board may deem or have declared to be competitive points not subject to the long and short haul clause under this Act. R.S.O. 1937, c. 259, s. 193. What competitive tariffs to specify.

194.—(1) Every standard freight tariff shall be filed with the Board and shall be subject to the approval of the Board. Standard freight tariff.

(2) Upon any such tariff being filed and approved by the Board the company shall publish it, with a notice of the approval, in such form as the Board directs in at least two consecutive weekly issues of *The Ontario Gazette*. Filing.

(3) When this section has been complied with the tolls as specified in the standard freight tariff or tariffs, as the case may be, shall, except in the cases of special freight and competitive tariffs, be the only tolls which the company is authorized to charge for the carriage of goods. Tolls specified to be the only lawful tolls.

(4) Until this section has been complied with no toll for the carriage or transport of goods shall be charged by the company. R.S.O. 1937, c. 259, s. 194. No toll until compliance.

195.—(1) Special freight tariffs shall be filed by the company with the Board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect. Special freight tariffs.

If tolls
previously
in force
are reduced.

(2) When any special freight tariff reduces any toll previously authorized to be charged under this Act, the company shall, for three days before the date on which the tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of the tariff, at every station or office of the company where freight is received, or to which freight is to be carried thereunder, and also post up in a prominent place, at each such office or station, a notice in large type directing public attention to the place in such office or station where the tariff is so kept on file, but the Board may, by regulation or otherwise, determine and prescribe any other or additional method of publication of the tariff during such period.

If previous
tolls
advanced.

(3) When any special freight tariff advances any toll previously authorized to be charged under this Act the company shall in like manner file and publish the tariff thirty days before the date on which the tariff is intended to take effect.

Effect of
filing.

(4) Upon any special freight tariff being so filed and published the company shall, until the tariff is superseded or is disallowed by the Board, charge the toll or tolls as specified therein, and such tariff shall supersede any preceding tariff or tariffs, or any portion or portions thereof, so far as it reduces or advances the tolls therein. R.S.O. 1937, c. 259, s. 195.

Competitive
tariffs.

196.—(1) Competitive tariffs shall be filed by the company with the Board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

Filing.

(2) Where it may be necessary to meet the exigencies of competition, or as the Board may deem expedient, the Board may make rules and regulations governing the filing or publication of such tariffs, and may provide that any such tariffs may be acted upon and put in operation immediately upon the issue thereof by the company before they have been filed with the Board. R.S.O. 1937, c. 259, s. 196.

Passenger Tariffs

Division of
passenger
tariffs.

197.—(1) The tariffs of tolls which the company shall be authorized to issue under this Act for the carriage of passengers between points on the railway shall be divided into two classes, namely,

- (a) the standard passenger tariff; and
- (b) special passenger tariffs.

What
standard
passenger
tariff shall
specify.

(2) The standard passenger tariff shall specify the maximum mileage tolls to be charged for passengers for all distances covered by the company's railway, and the distances may be

expressed in like manner as provided herein in respect of standard freight tariffs.

(3) Special passenger tariffs shall specify the toll or tolls to be charged by the company for passengers, in every case where such tolls are lower than the tolls specified in the company's standard passenger tariff. R.S.O. 1937, c. 259, s. 197.

What special passenger tariffs shall specify.

198.—(1) A standard passenger tariff shall be filed, approved and published in the same manner as required by this Act in the case of a standard freight tariff.

Standard passenger tariff.

(2) Until the company files its standard passenger tariff and it is so approved and published in *The Ontario Gazette* no tolls for the carriage of passengers shall be charged by the company.

No toll until compliance.

(3) When this section has been complied with the tolls in the standard passenger tariff shall, except in the case of special passenger tariffs, be the only tolls which the company is authorized to charge for the carriage of passengers. R.S.O. 1937, c. 259, s. 198.

Tolls authorized.

199.—(1) The company shall file every special passenger tariff with the Board and shall, for three days before the date on which it is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of each such tariff at every station or office of the company where passengers are received for carriage thereunder, and also post up in a prominent place at each such office or station a notice in large type directing public attention to the place in such office or station where such tariffs are so kept on file, but the Board may, owing to the exigencies of competition or otherwise, notwithstanding anything in this section, determine the time or manner within and according to which publication of any such tariff is to be made.

Special passenger tariffs.

(2) The date of the issue and the date on which, and the period, if any, during which any such tariff is intended to take effect shall be specified therein.

Date and period.

(3) Upon any such tariff being so duly filed the company shall, until such tariff is superseded or is disallowed by the Board, charge the toll or tolls as specified therein, and such tariff shall supersede any preceding tariff or tariffs, or any portion or portions thereof, in so far as it reduces or advances the tolls therein.

Effect of filing.

(4) Until such tariff is so duly filed no such toll or tolls shall be charged by the company. R.S.O. 1937, c. 259, s. 199.

No toll before filing.

Joint tariffs
may be
agreed upon.

200.—(1) Where traffic is to pass over any continuous route in Ontario operated by two or more companies the companies may agree upon a joint tariff for the continuous route, and the initial company shall file the joint tariff with the Board, and the other company or companies shall promptly notify the Board of its or their assent to and concurrence in the joint tariff.

Names of
companies.

(2) The names of the companies whose lines compose the continuous route shall be shown by the tariffs.

Continuous
route in the
case of
carriage by
water.

(3) If the company owns, charters, uses, maintains or works, or is a party to any arrangement for using, maintaining or working vessels for carrying traffic by water between any places or ports in Ontario, and if any such vessel carries traffic between a port in Ontario reached by the company and a port in Ontario reached by the railway of another company, the vessel and the railway of either company shall be deemed to constitute a continuous route in Ontario within the meaning of this section. R.S.O. 1937, c. 259, s. 200.

Where
failure to
agree.

201.—(1) In the event of failure by such companies to agree upon any joint tariff as provided in section 200, the Board, on the application of any company or person desiring to forward traffic over any continuous route, which the Board considers a reasonable and practicable route, or any portion thereof, may require such companies, within a prescribed time, to agree upon and file in like manner a joint tariff for the continuous route, satisfactory to the Board, or may, by order, determine the route, fix the toll or tolls and apportion the same among the companies interested, and may determine the date when the toll or tolls so fixed shall come into effect.

Companies
to comply.

(2) Upon any such order being made the companies shall, as soon as possible, or within such time as the Board may require, file and publish a joint tariff in accordance with this Act and in accordance with such order.

Apportion-
ment of
through
rate.

(3) In any case where there is a dispute between the companies interested as to the apportionment of a through rate in any joint tariff the Board may apportion the rate between the companies.

Power of
Board.

(4) The Board may decide that any proposed through rate is just and reasonable, notwithstanding that a less amount may be allotted to any company out of such through rate than the toll the company would otherwise be entitled to charge. R.S.O. 1937, c. 259, s. 201.

Continuous
carriage.

202.—(1) No company shall, by any combination, contract or agreement, express or implied, or by other means or

devices, prevent the carriage of goods from being continuous from the place of shipment to the place of destination.

(2) No break in bulk, stoppage or interruption made by the company shall prevent the carriage of goods from being treated as one continuous carriage from the place of shipment to the place of destination, unless the break, stoppage or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt the continuous carriage, or to evade any of the provisions of this Act. R.S.O. 1937, c. 259, s. 202.

203.—(1) Joint tariffs shall, as to the filing and publication thereof, be subject to the same provisions in this Act as are applicable to the filing and publication of local tariffs of a similar description, and, upon any joint tariff being duly filed with the Board, the company or companies shall, until such tariff is superseded or disallowed by the Board, charge the toll or tolls as specified therein; but the Board may except from this section the filing and publication of any or all passenger tariffs of foreign railway companies.

(2) The Board may require to be informed by the company of the proportion of the toll or tolls, in any joint tariff filed, which it or any other company is to receive or has received. R.S.O. 1937, c. 259, s. 203.

204.—(1) The company shall deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of each of its tariffs at the following places respectively,

- (a) standard passenger and freight tariffs at every station or office of the company where passengers or freight respectively are received for carriage thereunder;
- (b) special passenger and freight tariffs at every station or office of the company where passengers or freight respectively are received for carriage thereunder, and, as to such freight tariffs, as soon as possible, at each of its stations or offices to which freight traffic is to be carried thereunder;
- (c) competitive tariffs, at each freight station or office of the company where goods are to be received and delivered thereunder;
- (d) joint tariffs for traffic passing over any continuous route in Ontario, operated by two or more companies, at each freight station or office where traffic

is to be received, and at each freight station to which such tariffs extend.

freight
classification.
tions.

(2) The company shall keep on file at its stations or offices, where freight is received and delivered, a copy of the freight classification or classifications in force upon the railway for inspection during business hours.

Notice to be
posted at
place where
tariffs open
to inspection.

(3) The company shall post up in a prominent place at each of its stations where passengers or freight, respectively, are received for carriage a notice in large type directing public attention to the place in such station where the passenger or freight tariffs, respectively, are kept on file for public inspection during business hours, and the station agent or person in charge at such station shall produce to any applicant, on request, any particular tariff in use at that station which he may desire to inspect.

Power of
Board as to
publication
of tariffs.

(4) Notwithstanding anything in this section, the Board may, in addition to or in substitution for the publication of any tariff required by this section, by regulation or otherwise, determine and prescribe the manner and form in which any such tariff shall be published or kept open by the company for public inspection. R.S.O. 1937, c. 259, s. 204.

Contraven-
tion of
orders.

205. If any company or any director or officer thereof, or any receiver, trustee, lessee, agent or person, acting for or employed by the company, either alone or with any other company or person,

- (a) wilfully does or causes to be done, or willingly suffers to be done, any act, matter or thing, contrary to any order, direction, decision or regulation of the Board made or given under this Act, in respect of tolls; or
- (b) wilfully omits or fails to do any act, matter or thing hereby required to be done; or
- (c) causes or willingly suffers or permits any act, matter or thing, so directed or required to be done, not to be so done; or
- (d) contravenes any such order, direction, decision or regulation or any of the provisions of this Act, in respect of tolls,

such company, director, officer, receiver, trustee, lessee, agent or person shall for each such offence incur a penalty of not less than \$100 and not more than \$1,000. R.S.O. 1937, c. 259, s. 205.

206. Any company or any officer or agent thereof, or any person acting for or employed by the company, who, by means of false billing, false classification, false report of weight, or by any device or means, knowingly, wilfully or willingly suffers or permits any person to obtain transportation for goods at less than the required tolls then authorized and in force on the railway of the company shall, for each offence, incur a penalty of not less than \$100 and not more than \$1,000. R.S.O. 1937, c. 259, s. 206.

207.—(1) Any person, or any officer or agent or any incorporated company, who delivers goods for transportation to such company, or for whom as consignor or consignee the company transports goods, who knowingly or wilfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the company, its agent or agents, obtains transportation for such goods at less than the regular tolls then authorized and in force on the railway shall, for each offence, incur a penalty of not less than \$100 and not more than \$1,000.

(2) The Board may make regulations providing that any such person or company shall, in addition to the regular toll, be liable to pay to the company a further toll not exceeding fifty per cent of the regular charge.

(3) The company may, and when ordered by the Board shall, open and examine any package, box, case or shipment, for the purpose of ascertaining whether this section has been violated. R.S.O. 1937, c. 259, s. 207.

208. Any person or company, or any officer or agent of any company,

- (a) who offers, grants, or gives, or solicits, accepts or receives any rebate, concession, or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic is, by any device whatsoever, transported at a less rate than that named in the tariffs then in force; or
- (b) for whom the company or any of its officers or agents is by any such means induced to transport traffic, and thereby to discriminate unjustly in favour of any such person, company, officer or agent as against any other person or company; or
- (c) who aids or abets the company in any unjust discrimination,

shall for each offence incur a penalty of not less than \$100 and not more than \$1,000. R.S.O. 1937, c. 259, s. 208.

Departure
from tolls
in tariff.

209. If the company files with the Board any tariff and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, any departure from the tolls in such tariff, while so in force, shall, on the part of such company, its officers, agents or employees, be an offence under this Act. R.S.O. 1937, c. 259, s. 209.

Traffic Facilities

Facilities
for traffic.

210.—(1) All companies shall, according to their respective powers, afford to all persons and companies all reasonable and proper facilities for the receiving, forwarding and delivering of traffic upon and from their several railways, for the interchange of traffic between their respective railways, and for the return of rolling stock.

Including
through
traffic.

(2) Such facilities to be so afforded shall include the due and reasonable receiving, forwarding and delivering by the company, at the request of any other company, of through traffic, and, in the case of goods shipped by carload, of the car with the goods shipped therein, to and from the railway of the other company, at a through rate, and also the due and reasonable receiving, forwarding and delivering by the company, at the request of any person interested in through traffic, of such traffic at through rates.

Prohibitions.

(3) No company shall,

- (a) make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or company, or any particular description of traffic, in any respect whatsoever;
- (b) by any unreasonable delay or otherwise howsoever make any difference in treatment in the receiving, loading, forwarding, unloading or delivery of goods of a similar character in favour of or against any particular person or company;
- (c) subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever; or
- (d) so distribute or allot its freight cars as to discriminate unjustly against any locality or industry, or against any traffic which may originate on its railway destined to a point on another railway in Ontario with which it connects.

(4) Every company which has or works a railway forming part of a continuous line of railway with or which intersects any other railway, or which has any terminal, station or wharf near to any terminal, station or wharf of any other railway, shall afford all due and reasonable facilities for delivering to the other railway, or for receiving from and forwarding by its railway, all the traffic arriving by the other railway without unreasonable delay, and without any preference or advantage, or prejudice or disadvantage as aforesaid, and so that no obstruction is offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation, by means of the railways of the several companies, is, at all times, afforded to the public in that behalf.

Connecting railway to afford reasonable facilities.

(5) The reasonable facilities which every railway company is required to afford under this section shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by any such company, and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways.

Including facilities for junction of private sidings, branches.

(6) Every company which grants any facilities for the carriage of goods by express to any incorporated express company or person shall grant equal facilities, on equal terms and conditions, to any other incorporated express company which demands the same.

Equal facilities in case of express companies.

(7) Any agreement made between any two or more companies contrary to this section shall be unlawful and null and void. R.S.O. 1937, c. 259, s. 211.

Agreements to the contrary void.

211.—(1) Whenever it is shown that any company charges one person, company, or class of persons, or the persons in any locality, lower tolls for the same or similar goods, or lower tolls for the same or similar services, than it charges to other persons, companies, or classes of persons, or to the persons in another locality, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll, or difference in treatment, does not amount to an undue preference or an unjust discrimination shall lie on the company.

Burden of proof respecting unjust discrimination.

(2) In deciding whether a lower toll, or difference in treatment, does or does not amount to an undue preference or an unjust discrimination, the Board may consider whether such lower toll, or difference in treatment, is necessary for the purpose of securing in the interest of the public the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher tolls.

Determination of unjust discrimination.

Apportionment of toll for carriage by land and water.

(3) In any case in which the toll charged by the company for carriage, partly by rail and partly by water, is expressed in a single sum, the Board, for the purpose of determining whether a toll charged is discriminatory or contrary in any way to this Act, may require the company to declare forthwith to the Board, or may determine what portion of such single sum is charged in respect of the carriage by rail. R.S.O. 1937, c. 259, s. 213.

Determination of substantially similar circumstances, undue preferences, etc.

212.—(1) The Board may determine, as questions of fact, whether or not traffic is or has been carried under substantially similar circumstances and conditions, and whether there has, in any case, been unjust discrimination, or undue or unreasonable preference or advantage, or prejudice or disadvantage, within the meaning of this Act, or whether in any case the company has, or has not, complied with sections 187 and 210.

Power to make regulations in that behalf.

(2) The Board may by regulation declare what constitutes substantially similar circumstances and conditions, or unjust or unreasonable preferences, advantages, prejudices, or disadvantages within the meaning of this Act, or what constitutes compliance or non-compliance with such sections.

Power to order specific works.

(3) For the purposes of section 210 the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company or companies, or by railway companies generally. R.S.O. 1937, c. 259, s. 214.

Effect of tariff when filed.

213. If the company files with the Board any tariff and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, the tolls under such tariff while so in force shall, in any prosecution under this Act, as against the company, its officers, agents or employees, be conclusively deemed to be the lawful tolls chargeable by the company. R.S.O. 1937, c. 259, s. 215.

General Provisions Respecting Carriage

Effect of contracts, etc., impairing carriers' liability.

214.—(1) No contract, condition, by-law, regulation, declaration or notice, made or given by the company, impairing, restricting, or limiting its liability in respect of the carriage of any traffic, shall, except as hereinafter provided, relieve the company from such liability, unless such class of contract, condition, by-law, regulation, declaration or notice has first been authorized or approved by order or regulation of the Board.

(2) The Board may, in any case or by regulation, determine the extent to which the liability of the company may be so impaired, restricted or limited. R.S.O. 1937, c. 259, s. 216 (1, 2). ^{Power of Board}

215. The Board may, by regulation, prescribe the terms and conditions under which any traffic may be carried by the company. R.S.O. 1937, c. 259, s. 216 (3). ^{Terms may be prescribed.}

216. Nothing in this Act shall be construed to prevent, ^{Additional powers of railway companies.}

- (a) the carriage, storage, or handling of traffic, free or at reduced rates, for the Dominion, or for any provincial or municipal government, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the carriage, free or at reduced rates, of destitute or homeless persons, transported by charitable societies, and the necessary agencies employed in such transportation;
- (b) the issuing of mileage, excursion or commutation passenger tickets, or the carriage at reduced rates of immigrants or settlers and their goods or effects, or any member of any organized association of commercial travellers with his baggage;
- (c) railways giving free carriage or reduced rates to their own officers or employees, or their families, or to former employees of any railway, or for their goods and effects, or to members of the Senate or House of Commons of Canada or of the press, or to members of the Interstate Commerce Commission of the United States and the officers and staff of such commission, and for their baggage and equipment, or to such other persons as the Board may approve or permit;
- (d) the principal officers of any railway, or any railway or transportation company, from exchanging passes or free tickets with other railways, or railway or transportation companies, for their officers and employees, and their families, or their goods and effects;

provided that the carriage of traffic by the company under this section may, in any particular case, or by general regulation, be extended, restricted, limited or qualified by the Board. R.S.O. 1937, c. 259, s. 217.

217. Notwithstanding anything in this Act the Board may make regulations permitting the company to issue special rate notices prescribing tolls lower than the tolls in force upon ^{When special rates allowed.}

the railway to be charged for specific shipments between points upon the railway, not being competitive points, if it considers that the charging of the special tolls mentioned in such notices will help to create trade, or develop the business of the company, or be in the public interest, and not otherwise contrary to this Act. R.S.O. 1937, c. 259, s. 218 (1).

Notice to
be filed
with Board.

218. Every special rate notice or a duplicate copy thereof shall be filed with the Board and shall exist merely for the purpose of giving effect to the special rate charged for the specific shipment mentioned therein. R.S.O. 1937, c. 259, s. 218 (2).

Members of
Legislature
and Board
to have free
transporta-
tion.

219. The company shall furnish free transportation upon any of its trains for members of the Assembly, with their baggage, and for the members of the Board, and for such officers and staff of the Board as the Board may determine, with their baggage and equipment, and shall also, when required, haul free of charge any car provided for the use of the Board. R.S.O. 1937, c. 259, s. 219.

RAILWAY CONSTABLES

Constables
may be
appointed to
act on the
line of any
railway.

220.—(1) Any two justices of the peace or a magistrate, within whose jurisdiction the railway runs, may, on the application of the company or of any clerk or agent of the company, thereto authorized by the company, appoint any person, being a British subject, recommended for that purpose by such company, clerk or agent to act as a constable on and along the railway.

Oath of
office.

(2) Every person so appointed shall take and subscribe an oath to the following effect:

I, *A.B.*, having been appointed a constable to act upon and along (*here name the Railway*), under *The Railway Act*, do swear that I am a British subject by birth (*or naturalization*) and not a citizen or a subject of any foreign country, and that I will well and truly serve our Sovereign Lord the King, in the office of constable, without favour or affection, malice or ill-will, and that I will, to the best of my power, cause the peace to be kept, and prevent all offences against the peace, and that while I continue to hold such office, I will, to the best of my skill and knowledge, discharge the duties thereof faithfully, according to law: So help me God.

Appoint-
ment to be
in writing.

(3) Such appointment shall be made in writing signed by the official making the appointment, and the fact that the person appointed thereby has taken such oath shall be endorsed thereon by the person administering the same. R.S.O. 1937, c. 259, s. 220.

Powers of
constables.

221.—(1) Every constable so appointed and having taken such oath may act as a constable for the preservation of the peace and for the security of persons and property against unlawful acts,

- (a) on such railway, and on any of the works belonging thereto;
- (b) on and about any trains, roads, wharves, quays, landing-places, warehouses, land and premises belonging to the company, or in any place through which such railway passes, or in which the same terminates, or through or to which any railway passes which is worked or leased by such company; and
- (c) in all places not more than one-quarter of a mile distant from such railway.

(2) Every such constable shall have all the powers, protection and privileges for the apprehending of offenders, as well by night as by day, and for doing all things for the prevention, discovery and prosecution of offences; and for keeping the peace, possessed by any constable duly appointed. R.S.O. 1937, c. 259, s. 221. Power to apprehend offenders.

222.—(1) Every such constable may take such persons as are charged with any offence against this Act, or of any of the Acts or by-laws affecting the railway, before any justice or justices appointed for any county or district within which such railway passes. Duties of such constables.

(2) Every such justice may deal with all such cases as though the offence had been committed and the person taken within the limits of his jurisdiction. R.S.O. 1937, c. 259, s. 222. Jurisdiction of justices.

223.—(1) A judge of the county or district court of the county or district may dismiss any such constable who is acting within his jurisdiction. Dismissal by judge.

(2) The company or any manager or superintendent thereof may dismiss any such constable who is acting on the railway. By company.

(3) No person so dismissed shall be re-appointed or act as a constable for such railway without the consent of the authority by which he was dismissed. R.S.O. 1937, c. 259, s. 223. Re-appointment.

224.—(1) The company shall, within one week after the date of the appointment or dismissal, as the case may be, of any constable appointed at the instance of the company, cause to be recorded in the office of the clerk of the peace for every county or district wherein the railway passes, Record of appointment and of dismissals of constables.

- (a) the appointment or a certified copy thereof;
- (b) the name and designation of the constable;

- (c) the date of the appointment;
- (d) the name of the authority making the appointment;
- (e) in the case of dismissal the fact of the dismissal of the constable;
- (f) the date of the dismissal; and
- (g) the name of the authority making the dismissal.

Effect as
evidence.

(2) A copy of such record shall be *prima facie* evidence of the due appointment of such constable or of his dismissal, as the case may be.

Book for
such records.

(3) The clerk of the peace shall keep a record of all such facts in a book which shall be open to public inspection, and shall be entitled to a fee of fifty cents for each entry of appointment or dismissal, and twenty-five cents for each search or inspection, including the taking of extracts. R.S.O. 1937, c. 259, s. 224.

Neglect of
duty by
constable.
Penalty.

225. Every such constable who is guilty of any neglect or breach of duty in his office of constable shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$80. R.S.O. 1937, c. 259, s. 225.

Conductors
to have
powers of
constables.

226.—(1) The conductor of every train carrying passengers shall have all the powers of a constable while on duty on his train, and may wear a badge or other distinguishing mark of a special constable.

Removal of
passenger
guilty of
misconduct.

(2) Every passenger who,

- (a) is guilty of disorderly conduct; or
- (b) uses any blasphemous or obscene language; or
- (c) plays any game of cards or chance for money or any other thing of value,

may be expelled from and put out of the train with his baggage by the conductor at any usual stopping place or near any dwelling house as the conductor elects, but the conductor shall first stop the train and shall use no unnecessary force.

Assistance to
conductor.

(3) The conductor may command the assistance of the employees of the company and of the passengers on the train to assist in the removal. R.S.O. 1937, c. 259, s. 226.

Notice of
authority of
conductor.

227. The company shall cause a notice to be placed in all passenger cars stating that the conductors have the authority and powers of constables. R.S.O. 1937, c. 259, s. 227.

STREET RAILWAYS AND RAILWAYS OPERATING ALONG HIGHWAYS

General Provisions

228. Unless otherwise provided, sections 229 to 265 shall apply only to street railways and street railway companies and to other railways incorporated for the purpose of operating partly or wholly along highways by electricity. R.S.O. 1937, c. 259, s. 228.

Limited application of ss. 229 to 265.

229. Every such company may, subject to the special Act or any agreement between the company and a municipal corporation, construct, maintain, complete and operate and, from time to time, remove and change, as required, a double or single track railway, with the necessary switches, side tracks and turn-outs for the passage of cars, carriages and other vehicles adapted to the railway, upon and along such of the highways in any municipality to which the special Act extends, as the council of the municipality may by by-law authorize, and over and upon land purchased or leased by the company for that purpose, and take, transport and carry passengers upon the railway by the force or power of electricity, and construct and maintain all necessary works, buildings, appliances and conveniences connected therewith. R.S.O. 1937, c. 259, s. 229.

Powers of company.

230. The company may take, transport and convey goods upon its railway, but no freight or express cars shall be carried along any highway in any city, town or village over the railway unless and until the size and number of the cars and motors to be used therewith, and the hours of running the same, have been approved by the Board, nor shall any freight service be operated nor any class of freight carried on any such highway until authorized by, or except as directed by the Board. R.S.O. 1937, c. 259, s. 230.

Freight traffic.

231. Subject to section 260 the company and the council of any municipality in which a railway or part of a railway is proposed to be or is constructed may enter into agreements relating to,

Agreements between municipality and company as to construction, street repairs, etc.

- (a) the construction of the railway;
- (b) the time within which the railway shall be commenced, the manner of proceeding therewith, and the time of its completion;
- (c) the paving, macadamizing, repairing, grading and cleaning of the highways upon which the railway is proposed to be or is constructed;
- (d) the construction, opening and repairing of drains and sewers;

- (e) the laying, repairing or taking up of gas and water pipes in the highways;
- (f) the location of the railway, and the particular highways along which the railway may be laid;
- (g) the pattern of rails;
- (h) the time and speed of running the cars, sleighs and other conveyances;
- (i) the fares to be charged within the maximum hereinbefore mentioned; and
- (j) the amount of compensation, if any, to be paid by the company annually or otherwise. R.S.O. 1937, c. 259, s. 231.

Municipal Street Railways

Power to operate street railways.

232.—(1) The corporation of a city or town may construct, equip, maintain and operate street railways in, along and over such highways of the city or town, and subject to and upon such terms as the Board may approve, and may lease the same from time to time on such terms as may be determined.

Not applicable where previous agreement with a company.

(2) The powers conferred by this section shall not be exercised in respect of any highway or part of a highway in, along, or upon which a street railway company is entitled under an agreement with the corporation of the municipality to construct and operate its railway, so long as such right continues to exist, and any question or dispute as to whether a street railway company is so entitled shall be determined by the Board.

Power to operate extension of street railway in adjoining municipality.

(3) In addition to the powers conferred by subsection 1 the corporation of a city or town operating or proposing to construct or operate a street railway within its own limits may construct, equip, maintain and operate any extension of any such street railway in any adjoining municipality with the consent of the corporation of such adjoining municipality by by-law, and upon such terms as the Board may approve.

Rights and liabilities of municipality operating street railway.

(4) A municipal corporation which constructs, owns or manages a street railway, including any extension in any adjoining municipality, shall have and exercise the same rights and powers and be subject to the same liabilities as street railways and companies under this Act, except where the same conflict with or are inconsistent with or are repugnant to the rights, liabilities, powers and duties of a municipal corporation as provided by law.

Saving as to highways and bridges.

(5) Nothing in this section shall relieve any municipal corporation from its obligations and liabilities in respect of highways or bridges.

(6) Any such municipal corporation may maintain and operate motor-driven buses in conjunction with and as part of its street railway system but subject to *The Public Vehicles Act* if such buses are operated outside the municipality. R.S.O. 1937, c. 259, s. 232.

Motor
buses.
Rev. Stat.,
c. 322.

233. Where, under an agreement between a municipal corporation and a street railway company or any person from whom a street railway company has derived its title, the corporation is entitled to grant to another company or person the right to construct and operate a street railway on any street or part of a street upon which the first-mentioned company was authorized or empowered to construct or operate its railway or any part of it, by reason of the failure of such company to construct and operate or to operate its railway thereon, such corporation, instead of granting such right to another company or person, may itself construct, operate and maintain a railway thereon either as a separate and distinct line of railway or as part of any other railway which such corporation owns or operates or has power to construct or operate. R.S.O. 1937, c. 259, s. 233.

Construction and operation of street railway by municipality where corporation has power to grant franchise to a company.

Sunday Cars

234.—(1) Subject to section 235 no company or municipal corporation operating a street railway, tramway or electric railway shall operate the same or employ any person thereon on the first day of the week commonly called Sunday, except for the purpose of keeping the track clear of snow or ice, or for the purpose of doing other work of necessity. R.S.O. 1937, c. 259, s. 234 (1).

Street railways not to be operated on Sunday.

(2) This section shall not apply to any railway company or municipal corporation which now has the right to operate its street railway, tramway or electric railway on Sunday, or to the Cornwall Street Railway, Light and Power Company, Limited or to the corporation of the City of London, or the London Railway Commission, in the operation of the London and Port Stanley Railway, or to the London Street Railway Company in the operation of that part of its existing line lying in the Township of London between the north limits of the City of London and Broughs Bridge, or, subject to subsection 3, to the London Street Railway Company in the operation of that part of its existing line lying in the Township of Westminster, west of the west limit of the City of London. R.S.O. 1937, c. 259, s. 234 (2); 1941, c. 47, s. 1.

Exceptions.

(3) Nothing in subsection 2 shall entitle the London Street Railway Company to run any of their cars on any Sunday in the Township of Westminster, unless and until the company

Conditions upon which cars may be operated.

has received permission from the council of the corporation of the City of London and from the Public Utilities Commission of the City of London by by-laws to run their cars on Sunday, and then only and subject to such terms and conditions as may be contained in such by-laws, and unless and until the company has also entered into an agreement or agreements with the corporation and the Public Utilities Commission of the City of London, to observe the terms and conditions of the by-laws.

Penalty. (4) For every train run or operated in violation of this section the company shall incur a penalty of \$400, recoverable by any person suing for the same under this section and for the purpose thereof.

Application of penalties. (5) All money recovered under this section shall be appropriated as follows: one-half to the plaintiff and the other to the corporation of the local municipality from which the train or car started; but if the train or car is operated by the corporation of the municipality from within the limits of which the same started the plaintiff shall receive the whole amount so recovered.

Liabilities of conductor. (6) The conductor or other person in charge of any train run or operated in contravention of this section shall be guilty of an offence and upon summary conviction for every offence be liable to a penalty of not less than \$1 and not more than \$40.

Application of section. (7) This section shall apply to all electric and street railways, whether operated on a highway or on a right-of-way owned by the company. R.S.O. 1937, c. 259, s. 234 (3-7).

Operation of street cars on Sunday in city of 15,000. **235.**—(1) Subject to subsections 2 and 3, and notwithstanding anything in this or any other Act, street railways may be operated on Sunday within a city having a population of over 15,000 after a majority of those voting of the electors qualified to vote at municipal elections have voted in the affirmative in answer to the question: "Are you in favour of operating street railways on Sunday?"

Ascertaining population. (2) The question shall not be submitted until the Lieutenant-Governor in Council has declared that the population of the city is over 15,000, and the Lieutenant-Governor in Council may require a census to be taken and may prescribe the nature of the census and the time and manner of taking the same.

Declaration as to population conclusive. (3) When the Lieutenant-Governor in Council has declared that the population of the city is over 15,000, the question may be submitted at the annual municipal election, if the municipal council has decided on or before the 1st day of

December preceding the date of such election to submit the question, and has not later than the 15th of December given notice of such decision by public advertisement, for at least one week in each issue of a daily newspaper published in the municipality.

(4) The provisions of *The Municipal Act* as to the submission of questions to the electors and the voting thereon and the imposition of penalties and the prevention of corrupt practices in connection with elections shall apply to a vote taken under this section, but no person shall be entitled to vote more than once on the question. Application of Rev. Stat., c. 243.

(5) Nothing in this section shall entitle a street railway company which has entered into an agreement with a municipal corporation not to run cars on Sunday to run any of their cars on any Sunday unless and until the company has received permission from the council of the corporation by by-law to run their cars on Sunday, and then only under and subject to such terms and conditions as may be contained in the by-law, and unless and until the company has also entered into an agreement with the corporation to observe the terms and conditions of the by-law. R.S.O. 1937, c. 259, s. 235. Agreement not to be affected.

Hours of Labour

236. No employee shall be required or permitted to work for more than six days of ten hours each in any one week. R.S.O. 1937, c. 259, s. 236. Work days and hours.

237. Where a railway is operated on Sunday no employee shall be required or permitted to work on any Sunday when he has worked on the previous Sunday. R.S.O. 1937, c. 259, s. 237. Nor on two successive Sundays.

238. For each day on which a breach of either of sections 236 or 237 is committed the corporation or company offending shall incur a penalty of not less than \$25 and not more than \$100. R.S.O. 1937, c. 259, s. 238. Penalty.

Protection of Wires, Pipes and Cables

239.—(1) The company, when operating any portion of its railway across or along a highway by means of electricity conveyed by wires above ground, shall cause to be strung and maintained guard wires, as far as may reasonably be possible, sufficient to prevent telegraph, telephone or other wires strung across or along the highway from coming into contact with or falling upon the wires conveying the electricity. Duty to erect guard wires.

(2) The company, when operating any portion of its railway by means of electricity, shall use such means and appliances as may, as far as may reasonably be possible, prevent Duty to protect water pipes, etc., from injury by electricity.

water pipes, gas pipes, cables and other things, placed underground from being damaged in consequence of the escape or discharge of electricity into the ground.

What to be
deemed
sufficient.

(3) Unless otherwise ordered by the Board proper bonding of the rails and connecting the rails so bonded to the electric power generator or generators with a proper and efficient system of return wires shall be taken to be a compliance with this section.

Powers of
Board.

(4) The Board may make such order as it may deem proper to compel the proper observance of this section.

Right of
action.

(5) Any person who suffers damage by reason of the non-compliance by the company with this section shall have a right of action against the company therefor. R.S.O. 1937, c. 259, s. 239.

Forfeiture for Non-user

Forfeiture
for non-user.

240.—(1) If a company at any time ceases to regularly use the whole or any part of its railway for a period of eighteen months, it shall, upon being so ordered by the Board, forfeit the right to use the railway or the part unused, as the case may be, and the company shall also indemnify the corporation of the municipality in respect of the expenses incurred in taking up the rails and removing the poles and wires, and putting the highways in proper repair.

Lien of
municipal
corporation.

(2) The corporation shall have a lien upon the rails, poles, wires, rolling stock and other property of the company until such expense is paid. R.S.O. 1937, c. 259, s. 240.

Additional Powers of Electric and Street Railways

Powers as to
production
and use of
electricity,
works;

241.—(1) A company operating its railway by electricity and a street railway company shall also have power to,

purchase
of water
powers;

- (a) construct, maintain and operate works for the production of electricity for the motive power of the railway, and for the lighting and heating of the rolling stock and other property of the company;
- (b) acquire by lease or purchase and to hold, utilize and develop water powers and the necessary land therewith, and to construct the necessary works for generating electricity for lighting, heating, and power in operating the railway;

arrange-
ments for
supply of
power;

- (c) enter into any agreement with any person or company for supplying steam or other power for the production of electricity for the purposes of the railway, or with any electric light or electric railway company, or any company supplying or fur-

nishing electric power, for the purchase, leasing or hiring of power to run their electric motors, carriages or cars, or for lighting or heating the same, or for any other purpose for which it may be required by the company for constructing, carrying on or operating the railway;

- (d) purchase, lease or acquire by voluntary donation and to hold for any estate in the same and to sell, lease, alienate or mortgage any land or premises intended and necessary or suitable for park or pleasure grounds and to improve and lay out such land as parks or places of public resort, and enter into any agreement or arrangements with the corporations of the municipalities wherein the same are situate or any of them, in respect thereto, subject to the power of the council of the municipality to pass by-laws to regulate the use of such public parks and pleasure grounds, but
 - (i) none of the provisions of this clause shall have effect unless and until the council of the municipality has by by-law declared its assent to the company's acquiring land under and for the purpose mentioned in this clause, and
 - (ii) no such park or pleasure grounds shall be used for games, picnics, concerts, excursions or other public entertainments on Sunday;
- (e) purchase the right to convey electricity for the working of the railway and for the lighting or heating of the same over, through or under land other than the land of the company, and, with the consent of the councils of the municipalities affected, to purchase the right to lay conduits under, or erect poles and wires on or over such land as may be determined by the company, and along and upon any of the highways, or across any of the waters in Ontario by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires of such lines, or the conduits for such electricity, upon and subject to such agreement in respect thereof as shall first be made between the company and the owners of the land affected, and between the company and the corporation of any municipality in which such works or any part thereof or of the railway may be situate; and under and subject to any by-law of the council of such municipality passed in pursuance thereof; but such works shall not be so constructed as to interfere with the public use of such highways, or so as to be

power to
acquire
lands for
parks;

saving as
to assent
of council;

idem as
to Sunday;

acquiring
rights for
conveying
electricity.

a nuisance thereto, or to impede the free access to any house or other building erected in the vicinity of the same or to endanger or injuriously affect the same or to interrupt the navigation of such waters.

As to Crown lands, public parks.

(2) The rights conferred upon the company shall not be exercised within the limits of any park vested in the Crown for the use of the public, or any land vested in commissioners for any such park, without the approval of the Lieutenant-Governor in Council.

Construction of railway on highways.

(3) Subject to sections 246 to 252, and section 263, no railway or street railway shall be constructed or operated along any highway or public place in any municipality until first authorized by an agreement made between the company and the corporation of such municipality, and, except under and subject to the terms of such agreement and of section 260, and of any by-law of the council of the municipality passed in pursuance thereof, and in all such cases every work, matter or thing in connection with the motive power, and the application and use thereof in so constructing and operating such railway, or the cars, carriages, engines, motors or machines thereof, shall be so constructed, erected, laid down and arranged as to impede or incommode the public use of such highway or public place as little as possible, and so as not to be a nuisance thereto, nor to interfere with the free access to any house or other building erected in the vicinity of the same, and the electric and other appliances shall be of such improved manufacture and so placed as to avoid so far as possible any danger to buildings or other property. R.S.O. 1937, c. 259, s. 241.

Notice to be given before passing by-law authorizing construction on highways.

242.—(1) No municipal council, notwithstanding anything in this or any other Act to the contrary, shall pass a by-law authorizing any electric railway company or street railway company to lay out or construct its railway along any public highway until written or printed notices of the intended by-law, specifying the route to be taken by the railway, have been previously posted up for one month in six of the most public places in the municipality, and published weekly for at least four successive weeks in a newspaper published in the municipality or if there is no such newspaper then in a newspaper published in a neighbouring municipality, or if there is no such newspaper then in a newspaper published in the county or district town.

Objectors to be heard by council.

(2) The council shall hear in person or by counsel any one whose property may be prejudicially affected by such proposed railway who desires to be heard.

(3) If, after hearing such objections as may be made, the council passes the by-law any fifteen freeholders in the municipality may petition the Board to amend or quash such by-law, and upon such petition, after hearing all parties interested, the Board shall have power to amend such by-law in such manner as to the Board may seem proper, or to quash the same. Appeal to Board to quash or amend.

(4) The costs of such proceeding shall be in the discretion of the Board and may be fixed by the Board or taxed by one of the taxing officers of the Supreme Court. Costs.

(5) This section shall not apply to extensions within the limits of a city or town of a street railway already constructed, nor to a by-law which requires the assent of the electors under *The Municipal Franchises Act*. R.S.O. 1937, c. 259, s. 242. Section not to apply to certain extensions. Rev. Stat., c. 249.

243.—(1) The company may, at any point or points where its line runs along a highway, deviate from the highway to a right-of-way owned by the company if no obstruction of the highway is thereby caused, and if the rails on the deviation do not rise above or sink below the surface of the highway more than one inch they shall not be deemed an obstruction. Power to deviate.

(2) The right conferred by this section shall not be exercised without the consent of the Board. R.S.O. 1937, c. 259, s. 243. Consent.

244. Notwithstanding anything in this or in any other Act, no municipal corporation shall grant to any company any exclusive right, privilege or franchise for the transmission of electrical energy for power, light and heat over or across any highway. R.S.O. 1937, c. 259, s. 244. Limitation of transmission of electrical energy.

Expropriation by Street Railway or Incline Railway Companies

245.—(1) Where the council of a municipality, by by-law, declares that it is of opinion that a company incorporated with power to construct a street railway or incline railway in the municipality should have powers of expropriation for the purposes of building a part of its railway between two or more points, set forth in the by-law, situate within the municipality, the company, upon registering the by-law in the proper registry office, shall, in respect of land lying between the points named, possess the powers conferred upon railway companies by the sections of this Act relating to the taking of land without the consent of the owner. When expropriation of land by these companies may be allowed and to what extent.

(2) Such powers shall be exercised within two years from the passing of the by-law, and not afterwards, and the land to be taken thereunder shall not exceed one chain in width. Limitation.

Niagara
Falls.

(3) This section shall not apply to the tract of country extending three miles above and three miles below the Falls of Niagara, and for a width inland of one mile from the River Niagara. R.S.O. 1937, c. 259, s. 245.

Duration of Street Railway Franchises

Limitation
of duration
of franchise.

246.—(1) No municipal council shall grant to a street railway company any privilege under this Act for a longer period than twenty-five years.

When
municipality
may assume
the owner-
ship.

(2) At the expiration of twenty-five years from the time of passing the first by-law which is acted upon conferring the right of laying rails upon any highway or at such other earlier date as may be fixed by agreement, the municipal corporation may, after giving to the company one year's notice prior to the expiration of the period limited, assume the ownership of the street railway, and all real and personal property in connection with the working thereof on payment of the actual value thereof to be determined by the Board.

How value
ascertained.

(3) In ascertaining such actual value the franchise or control of tracks upon the highways shall not be estimated as of any value whatever.

Alternative
right.

(4) If the corporation does not exercise such right, the corporation may exercise the like right at the expiration of any fifth year thereafter, upon giving one year's previous notice to the company, and the privileges of the company shall continue until the ownership is assumed by the corporation.

Who may
exercise right
to purchase.

(5) If a street railway extends beyond the limits of a city or town the corporation of the city or town may exercise the right conferred by this section.

Position of
purchasing
municipality.

(6) The purchasing corporation shall possess the same powers and authority and be subject to the same conditions, obligations and restrictions as the company, and shall be subject to all orders and directions of the Board in the same manner and to the same extent as a company operating a street railway. R.S.O. 1937, c. 259, s. 246.

Muni-
cipality dis-
satisfied
with terms
as to railway
in certain
cases, may
apply to
the Board.

247.—(1) The council of any municipality into which a street railway runs may, at any time after the right of assuming the ownership of the railway accrues to a municipal corporation, require that the terms upon which the railway shall be operated in such municipality be determined, and the terms, if the company and the council of the municipality are unable to agree as to them, shall be determined by the Board, and such arrangement shall remain in force for ten years.

(2) At the end of that period either party may require that the terms be settled anew in like manner for another period of ten years; but such settlement or agreement shall be without prejudice to the right hereinbefore conferred upon a city or town to assume the ownership of the railway at the expiration of any fifth year. R.S.O. 1937, c. 259, s. 247.

Re-adjustment of terms.

248. Subject to section 246 a municipal corporation purchasing may, at any time, transfer its right to its street railway lines or any of them, and the whole or any part of the plant of the railway, to any person or company authorized to operate a street railway, on such terms and conditions as may be agreed upon by such street railway company and the municipal corporation. R.S.O. 1937, c. 259, s. 248.

Municipality acquiring railway may transfer same to a company.

249. A company to which any lines of street railway have been transferred by a municipal corporation shall, as respects section 248, stand in the same position as the municipal corporation from which it received such transfer. R.S.O. 1937, c. 259, s. 249.

Position of company so acquiring.

Limitation of Company's Powers

250.—(1) A company shall not, without having first obtained the permission and approval of the Board, begin the construction of its railway or of any extension of it upon any highway or part of a highway upon which it has authority to construct or extend its railway.

Railway not to be constructed on highway without sanction of Board.

(2) The Board may withhold its permission and approval where it is of opinion that it has not been made to appear that the construction or extension upon such highway or part of a highway is necessary or convenient for the public service, or where, in the opinion of the Board, it is not in the public interest that the railway should be constructed or extended upon such highway or part of a highway.

When Board may withhold permission.

(3) This section shall apply to any addition to or alteration of the line of the railway as constructed, and shall apply notwithstanding the terms of any agreement between the company and any municipal corporation.

Additions or alterations of line.

(4) This section shall apply to all railways however operated and to street railways. R.S.O. 1937, c. 259, s. 250.

Application to street railway.

251. Nothing in this Act shall authorize the passing of any by-law, the making of any agreement, the granting of any franchise or privilege, or the doing of any other thing in contravention of *The Municipal Franchises Act*. R.S.O. 1937, c. 259, s. 251.

Exception.

Rev. Stat., c. 249.

*Duration of Privileges to Operate Electric Railways along
Highways*

Limitation
of duration
of franchise.

252.—(1) No municipal council shall grant to a company any privilege to operate its line along a highway for a longer period than twenty-five years.

Extension.

(2) At the expiration of the period for which the privilege was granted the council may extend the privilege for a further term not exceeding twenty-five years on such terms and conditions as may be agreed upon by the council and the company, or, with the consent of the Board, the corporation of the municipality may assume the ownership of that portion of the railway operated on the highways of the municipality upon payment of the actual value thereof, to be determined by the Board.

Value.

(3) In ascertaining such actual value the franchise or control of the tracks upon such highways shall not be estimated as of any value whatever.

Notice of
intention to
take over
railway.

(4) The corporation shall not have the right to assume such ownership unless notice of the intention so to do has been given to the company one year prior to the expiration of the privilege or franchise, and in no case shall a municipal corporation assume such ownership without the consent of the Board.

Application
of section.

(5) This section shall only apply to electric railways that are not street railways. R.S.O. 1937, c. 259, s. 252.

Fenders, Brakes, etc.

Approval of
fenders and
other appli-
ances.

253.—(1) A company operating any portion of its line by means of electricity along a highway shall from time to time adopt and use in the front of each motor car a fender or guard, and shall from time to time adopt and use a brake and other life-saving appliances of a design approved from time to time by the Board.

Adoption.

(2) The fender, guard, brake or other life-saving appliance approved by the Board shall be adopted and used upon the cars of the company within the time fixed by the order approving of the same, or by any order extending such time.

Use of
approved
fenders.

(3) Where the cars are equipped with fenders of a class approved by the Board the company shall not be liable for non-compliance with any by-law or agreement relating to the class of fenders to be used in any city or town, or any requirement of the engineer or other officer of the municipality under any such by-law or agreement.

Penalties
for not
providing
fenders, etc.

(4) The company shall pay to the corporation of the municipality in which such railway is operated the sum of \$10 for each day in which any motor car is operated within the

municipality without having such a fender, guard, brake or other life saving appliance thereon, except in cases of accident or unavoidable necessity.

(5) If the Board so orders the company shall allow tests Tests of
brakes, etc. to be made on any of its motors or cars, of any fender, guard, brake or other life-saving appliance which the Board deems advisable to have tested with a view to ascertaining its efficiency for the purpose for which it is designed. R.S.O. 1937, c. 259, s. 253.

Conveniences, etc.

254.—(1) Every street railway company and incline railway company shall, within six months after being so ordered by the Board, provide, furnish and thereafter maintain suitable and sanitary urinals and other conveniences for the use of the employees of the company operating its cars. Conveniences for
street railway
employees.

(2) Such urinals and other conveniences may be located Location. upon land owned or provided by the company and reasonably accessible to each of the lines of railway operated by the company, and at such points as the Board may direct, within the limits of the city or town, and the employees of the company shall be allowed reasonable opportunity of access thereto.

(3) The company shall incur a penalty of \$10 per day for each day upon which it neglects to provide such urinals or other conveniences. Penalty for
not
supplying.

(4) The Board shall determine whether the cost of such urinals and conveniences shall be borne by the company or by the city or town within the limits of which the company's lines are operated, or by both, and if by both the proportions in which the same shall be borne by them respectively, in case the parties are unable to agree, as may be determined by the Board. Cost of providing
conveniences.

(5) The Board may order the city or town to provide the site for such urinals or other conveniences, upon such terms as to cost and otherwise as the Board may determine. City or town
may be
ordered to
provide site.

(6) When so ordered by the Board such urinals and other conveniences shall be open to the public as well as to the employees of the company, and when so open the Board may order the cost of the maintenance of the same to be borne by the city or town and the company in such proportions as may be deemed proper. R.S.O. 1937, c. 259, s. 254. Board may
order
conveniences to
be open to
the public.

255.—(1) The Board may order a company to provide sanitary conveniences for the use of passengers on all passenger cars. Sanitary
conveniences
on cars.

Application. (2) This section shall only apply to electric railways that are not street railways, and to steam railways. R.S.O. 1937, c. 259, s. 255.

"Pay as You Enter" System

Conditions upon which "pay as you enter" cars may be operated. **256.**—(1) What is known as the "pay as you enter" system of collecting fares shall not be operated on any street railway car unless the design of the car has been approved by the Board.

Penalty. (2) Every company or person who contravenes this section shall therefor incur a penalty of \$100 per day for each car operated contrary to the provisions of this section. R.S.O. 1937, c. 259, s. 256.

One man as motorman and conductor. **257.** No street railway car or electric railway car, when engaged in carrying passengers, shall be operated with one man performing the duties of both motorman and conductor, without the approval of the Board, and the Board may make orders and regulations in respect of the construction and operation of such cars and may define and limit the routes upon which they may be operated. R.S.O. 1937, c. 259, s. 257.

Unclaimed Property

Notification of owner. **258.**—(1) Where unclaimed property is left in a car the company shall ascertain if possible the owner of it, and as soon as possible after such property comes into its possession, notify him of the fact by mail and of the place where the property may be claimed.

Disposal of non-perishable property. (2) Every company which has such property, not being perishable property, in its possession for three months may sell the same at public auction, after giving notice by one publication at least ten days prior to the sale in a daily newspaper published in the city or town in which the sale is to take place of the time and place at which it will be held, and such sale may be adjourned from time to time until all the articles are sold.

Perishable property. (3) Perishable property so left may be immediately sold without notice.

Places of deposit. (4) The places at which the property may be claimed shall be subject to the approval of the Board. R.S.O. 1937, c. 259, s. 258.

Transfer in Ownership of Highways

Agreements with companies as to certain matters to enure for benefit of municipality owning road. **259.** Where a railway operated by electricity upon a highway or a portion thereof is constructed in a municipality under an agreement with the corporation thereof, or with the corporation having the control of the highway, and the territory or any part of the territory in which such railway is

constructed is subsequently annexed to another municipality, or the highway along which such railway is constructed, has ceased to be owned or controlled by the corporation of one municipality, and has become vested in or has been placed under the control of another corporation, then, so far as such agreement relates to the maintenance and repair of the track and roadbed of the railway or the remaining portions of the highway or highways over which the railway is operated, and to the removal of snow and ice from the company's track and the disposal thereof, the corporation of the last-mentioned municipality, and any officer or person appointed for such purpose, shall be substituted for and shall have all the rights and may exercise all the powers and be subject to the same duties as the municipal corporation party to such agreement and any officer or person charged with the performance of any duty thereunder in respect of the matters aforesaid. R.S.O. 1937, c. 259, s. 259.

*Agreements with Municipalities for Operating Along
Highways*

260. Any agreement between a municipal corporation and a company under which the company obtains a right or franchise to operate its railway along a highway, except so far as such provisions are expressly excluded by such agreement, shall be deemed to contain provisions that, Clauses to be included in agreements.

- (a) the rails of the company shall conform to the grade rails; of the highway;
- (b) where the rails are laid upon the paved or travelled rails to be flush with street; portion of a highway, or on any part thereof, they shall be laid as nearly as practicable flush with the highway, and so as to cause the least possible impediment to the ordinary traffic, and shall be so kept and maintained by the company;
- (c) the company, so long as it uses any of its tracks on the travelled portion of a highway, shall keep in company to keep road-way in repair; repair the whole space used on its track allowances, crossings, switches and turnouts and eighteen inches of the highway outside of its tracks;
- (d) if the company neglects to keep in repair its track company neglecting to repair; allowances and crossings, switches and turnouts or to have the necessary repairs according to the agreement made thereon, the council may give notice to the company requiring the repairs to be made forthwith, and the certificate of the engineer, appointed by the council for the time being, as to the necessity for the repairs shall be binding and conclusive upon the company, and if, after giving

such notice, the company does not within one week begin, and thereafter, with all reasonable diligence, carry such work of repairing to completion, the council shall have the right to cause the repairs to be made, and the company shall pay to the treasurer of the municipality the expenditure incurred in making or completing the repairs;

- penalty; (e) the payment of such amount shall not relieve the company from any penalty provided for the omission to repair by the agreement between the corporation and the company;
- speed; (f) a car or train of cars shall not be operated on the travelled portion of any highway at a greater speed than fifteen miles an hour unless authorized by the Board, and it shall be operated at a less rate of speed if so ordered and directed by the Board;
- intersecting roads, culverts, approaches; (g) at the intersection of the railway with highways crossing or intersecting the highway upon which the railway is operated the company shall construct and keep in repair crossings of a similar character to those adopted by the municipal corporation, and shall construct underneath its track allowance such culverts and waterways as are, in the opinion of the council or its engineer or other officer appointed for that purpose, necessary for drainage purposes, and shall at the entrance to private properties abutting upon the railway construct such approaches as may be directed by the council or such officer or by the Board;
- width of culverts; (h) when the tracks are built over a culvert, the company shall, when so directed by the council or such engineer or other officer or by the Board, extend the culvert so that the portion of the highway to be travelled upon by the public shall have a width of at least eighteen feet between the nearest track and the end of the culvert upon the side of the highway opposite to such track;
- removal of snow; (i) the company shall remove the snow from and within its tracks and switches, but any snow put upon the graded part of the highway by the company shall be spread evenly thereon in a manner to be approved by the council or its engineer or other officer;
- taking up streets by municipality; (j) the council may at any time, after giving the company twenty days' notice of its intention so to do, take up any part of the highway upon which the railway is constructed for the purpose of altering

the grade of the highway, constructing sewers, drains, culverts or side crossings, laying down gas and water pipes or underground wires, and for all other purposes within the jurisdiction and authority of a municipal corporation without being liable for any compensation for damage that may be occasioned to the working of the railway or the works connected therewith;

- (k) when and so often as it may be necessary for the corporation to open up a highway for the purpose of repairing it or any sewer, drain, culvert, gas or water pipe, or underground wire, or for putting in gas, water or other services, a reasonable notice shall be given to the company of the council's intention so to do, and the work thereon shall not be unnecessarily delayed, but shall be carried on and completed with all reasonable speed, due regard being had to the proper and efficient execution thereof; notice of council's intention;
- (l) all work done by the company under the authority of the agreement shall be done in the most substantial manner and according to the best modern practice and under the superintendence and to the satisfaction of the engineer or officer appointed by the council for such purpose with a right of appeal to the Board; work to be done to satisfaction of municipality's engineer;
- (m) the alignment of the company's tracks, the location of switches and turn-outs and the grades of the roadbed of its railway shall be prescribed by such engineer or other officer; alignment, switches, turn-outs and grades;
- (n) the company shall repay to the corporation all sums paid by it to such officer or engineer for services performed by him in connection with the company's work; company to pay for engineer;
- (o) all persons using the highway shall be at liberty to travel upon any part of the travelled roadway occupied by the company's railway, and in the same manner as upon other portions of the highway, and vehicles of every description shall be allowed upon such portion of the highway, but the company's cars shall have the first right-of-way over the railway, and all vehicles or persons travelling on that portion of the highway occupied by the railway, shall turn out to let the trains or cars pass, and any person refusing or neglecting so to do shall be guilty of an offence and upon summary conviction right of public to use track allowances.

shall be liable to a penalty of not more than \$10.
R.S.O. 1937, c. 259, s. 260.

Remedy for Breach of Agreement

Board to
try all
cases of
breach of
agreement.

261.—(1) Where a railway or street railway is operated in whole or in part upon or along a highway under an agreement with a municipal corporation, and it is alleged that the agreement has been violated, the Board shall hear all matters relating to the alleged violation and shall make such order as to it may seem just, and by such order may direct the company or person operating the railway, or the municipal corporation, to do such things as the Board deems necessary for the proper fulfilment of the agreement, or to refrain from doing such acts as in its opinion constitute a violation thereof.

May enter
company's
property
and
exercise
functions of
directors.

(2) The Board may take such means and employ such persons as may be necessary for the proper enforcement of such order, and in pursuance thereof may forcibly or otherwise enter upon, seize and take possession of the whole or part of the railway, and the real and personal property of the company together with its books and offices, and may, for that purpose, assume and take over all or any of the powers, duties, rights and functions of the directors and officers of the company and supervise and direct the management of the company and its railway in all respects, including the employment and dismissal of officers and servants of the company, for such time as the Board shall continue to direct the management.

Company's
servants to
obey Board.

(3) Upon the Board so taking possession of the railway and property, it shall be the duty of every officer and employee of the company to obey the orders of the Board or of such person as it may place in authority in the management of any or all departments of the railway.

Power of
Board to
pay out and
receive
money.

(4) The Board shall, upon taking possession, have power to demand and receive all money due to and to pay out all money owing by the company, and may give cheques, acquittances and receipts for money to the same extent and in as full and ample a manner as the proper officers of the company could do if no such order had been made.

Effect.

(5) Cheques, acquittances or receipts given by the Board shall be a defence to any action that may afterwards be brought by the company against the person or corporation paying over the money for which the cheques, acquittances or receipts were given.

Board not
liable for
damages.

(6) The Board and the members thereof, and its officers and employees shall not be liable to any action for acts done by them or any of them under the authority of this section.

(7) The expenses of and incidental to proceedings taken ^{Costs.} by the Board under this section shall be in the discretion of the Board, and the Board shall have power to direct by whom and to what extent the same shall be paid.

(8) The certificate of the Board as to the amount of such ^{Idem.} expenses shall be final. R.S.O. 1937, c. 259, s. 261.

262.—(1) The Board, for the purpose of enforcing com- ^{Penalty}pliance with any order requiring any railway company operat- ^{for failure}ing a railway or street railway in whole or in part upon or ^{to supply}along a highway under an agreement with a municipal cor- ^{additional}poration, to furnish additional cars or equipment for its ^{cars.}service, in addition to any other powers possessed by it, may order the company to pay to the corporation of the municipality in which the company so operates, a penalty not exceeding \$1,000 a day for non-compliance with any such order.

(2) An appeal from any such order or from the refusal by ^{Appeal}the Board to make an order, shall lie to the Court of Appeal at ^{from order}the instance of either the corporation or the company and the ^{of Board.}judgment of the Court of Appeal shall be final and binding, and no further appeal shall be allowed.

(3) Notice of the appeal may be given within ten days ^{Notice of}after the date of the order of the Board, or of the refusal of ^{appeal.}the Board to make an order. R.S.O. 1937, c. 259, s. 262.

Radial Lines

263.—(1) Notwithstanding anything in this Act no rail- ^{Conditions of}way shall be constructed along any highway within the limits ^{operating}of a city or town except upon and subject to such terms and ^{in cities}conditions as have been agreed upon between the company ^{and towns.}and any street railway or electric railway company already operating in the city or town and the corporation of the city or town.

(2) If there is an existing agreement between the corpora- ^{Saving of}tion of the city or town and the street railway or electric rail- ^{existing}way company, the railway shall not be constructed along any ^{agreement.}such highway in contravention of the agreement.

(3) Where no provision is contained in the agreement for ^{Terms}the admission of other electric or street railways then, if the ^{governing}council of the city or town, by by-law or resolution, requests ^{admission}the street railway company or electric railway company ^{of other}already operating in the city or town to allow its tracks or any ^{railways.}of the highways to be used for the entrance of the other railway, or if the street railway company or electric railway

company or the other railway company, by by-law or resolution, requests the council of the city or town to permit the entrance of the railway, the company so operating shall permit its tracks or any highways to be used to some central point in the city or town, and the corporation shall permit the other railway to enter within the limits of the city or town, upon such terms and conditions as to compensation, location of the central point, and otherwise as may be agreed upon between the other railway company, the council and the street railway or electric railway company, or as shall be settled and determined by the Board in case the council and the companies are unable to agree upon the same.

Grant of franchise to radial railway not to extend beyond street railway company's franchise.

(4) Nothing in this section shall, without the consent of the corporation of the city or town, confer upon a company any right or privilege to so operate its railway for a longer period than the unexpired term of the franchise or privilege held or enjoyed by the company which, at the date of application to the Board under this section, is operating a railway or street railway within the limits of the city or town.

Renewal of agreements.

(5) At the expiration of such term a new agreement granting the right or privilege may be made for a further period not exceeding twenty-five years, and in the event of the parties being unable to agree the Board may, in its discretion, order a new agreement to be made upon such terms and conditions as shall be determined by the Board.

Rights of municipality as to taking over railway not affected.

(6) This section shall not confer upon the Board power to vary or annul any provision in the agreement, or in the order of the Board allowing the entrance of such other railway, which grants to the corporation of the city or town the right to take over and assume the ownership of such other railway within the limits of the city or town on the expiration of any such term. R.S.O. 1937, c. 259, s. 263.

Application of street railway sections to radial lines operating in city or town.

264. A company operating its railway in a city or town shall, in addition to such terms, conditions, regulations and restrictions as may be contained in any agreement with or by-law of the city or town, be subject as to that portion of the railway within the limits of the city or town to the provisions of this Act respecting the construction and operation of street railways. R.S.O. 1937, c. 259, s. 264.

Examination of Motormen

Examination of applicants for positions as motormen.

265.—(1) No person shall be employed as a motorman on any railway or street railway operated by electricity until he has been subjected to a thorough examination by one or more examiners, to be approved by the Board, as to his habits, physical ability and intelligence, and has undergone such

training as may be prescribed by the Board, by regulation applicable generally or to the particular railway, and the examiner has reported to the Board that the person is competent to fill the position of motorman.

(2) He shall then be placed on a car with an instructor and when the examiner is satisfied as to his capability for the position of motorman he shall so certify to the Board, and, if the person is employed, he shall, so far as reasonably possible, first serve on the lines of least travel. Certificate by instructor as to capability.

(3) The company shall pay for the services of the examiner. Payment of examiner.
R.S.O. 1937, c. 259, s. 265.

Examination for Colour Blindness

266.—(1) No company shall employ any person in a position which requires him to distinguish form or colour signals unless, within two years next preceding his appointment, he has been examined for colour blindness on the distinct colours in actual use as signals on the company's line of railway, and also as to his eyesight generally, by a competent person employed for the purpose by the company and approved by the Board, and unless he has received a certificate that he is not disqualified for such position by reason of colour blindness or otherwise in respect of his eyesight. Examination as to eyesight.

(2) The company shall cause such employees to be re-examined for colour blindness, and otherwise in respect of their eyesight, at least once in every two years. Periodical re-examination.

(3) Nothing in this section shall prevent the company from continuing in its employment any person having defective sight in cases where the same can be fully corrected by the use of glasses or by other means satisfactory to the person making the examination. When defect can be remedied by glasses.

(4) For every contravention of this section or section 265 the company shall, for each offence, incur a penalty of \$100. Penalty.
R.S.O. 1937, c. 259, s. 266.

ACTIONS, LIABILITIES

267.—(1) Subject to subsection 4 or section 139 all actions for indemnity, or for any damage or injury sustained by reason of the construction or operation of the railway, shall be commenced within one year next after the time when such supposed damage is sustained, or, if there is continuation of damage, within one year next after the doing or committing of such damage ceases, and not afterwards. Limitation.

(2) Nothing in this section shall apply to any action brought against the company upon any breach of contract, express or implied, for or relating to the carriage of any Certain actions excepted.

traffic other than passenger traffic, or to any action against the company for damages under the provisions of this Act respecting tolls.

Company not relieved by reason of inspection, etc.

(3) No inspection had under this Act, and nothing in this Act and nothing done or ordered, or omitted to be done or ordered under or by virtue of this Act, shall relieve, or be construed to relieve, a company of or from or in any wise diminish or affect any liability or responsibility resting upon it by law, either towards the Crown or towards any person, or the wife or husband, parent or child, executor or administrator, heir or personal representative, of any person, for anything done or omitted to be done by the company, or for any wrongful act, neglect or default, misfeasance, malfeasance, or non-feasance, of the company. R.S.O. 1937, c. 259, s. 267.

Contracts Waiving Rights, Void

Contracts waiving right of employees to damages void.

268.—(1) No company owning or operating a railway in whole or in part in Ontario shall adopt or promulgate any rule or regulation for the government of its servants or employees, or enter into any contract or agreement with any person engaged in or about to engage in its service, in which the employee directly or indirectly promises or agrees to hold the company harmless, on account of any injury he may receive by reason of any accident to, breakage, defect or insufficiency in the cars, motors, locomotives or machinery or attachments thereto belonging and any such rule, regulation, contract or agreement shall be void and of no effect.

Not to be entered into.

(2) No company shall demand, accept, require, or enter into any contract or agreement with any person about to enter or in the employ of the company whereby the person agrees to surrender or waive any right to damages for personal injury or death against the company thereafter arising, and all such contracts and agreements shall be void.

Penalty.

(3) Every company contravening or aiding in the contravention of this section shall, for each offence, incur a penalty of \$500, to be recovered in any court of competent jurisdiction by any person suing therefor.

Company not to operate defective machinery.

(4) No such company shall knowingly or negligently use or operate any car, motor or locomotive that is defective, or any car, motor or locomotive upon which the machinery or attachments thereto belonging are in any manner defective. R.S.O. 1937, c. 259, s. 268.

WAGES OF LABOURERS; SUBSIDIES

Rate of wages of labourers on construction of lines subsidized by Legislature.

269.—(1) Where the Legislature has heretofore granted or hereafter grants financial aid by way of subsidy or guarantee towards the cost of railway construction, all mechanics, labourers or other persons who perform labour in such con-

struction shall be paid such wages as are generally accepted as current for competent workmen in the locality in which the work is being performed, and if there is no current rate in such locality, then a fair and reasonable rate.

(2) If a dispute arises as to what is such current rate, or a fair and reasonable rate, it shall be determined by the Board whose decision shall be final. Decision of Board final. R.S.O. 1937, c. 259, s. 269.

270.—(1) In this section,

Interpretation.

- (a) "settlers" and "prospectors" include a person who produces evidence to the proper officer of the railway company that he is an intending settler or prospector, as the case may be, in a district through which the railway runs, which evidence shall be deemed sufficient if it complies with any Order in Council in that behalf, and also include every member of the family of a settler or prospector residing with him using the railway or any part thereof in connection with such settling or prospecting;
- (b) "toll" includes any rate or charge for any passenger, animal, vehicle, goods, merchandise, or thing conveyed on the railway.

(2) Every subsidy heretofore granted out of the Consolidated Revenue Fund in aid of any railway, as to any part thereof which is still unearned, and every such subsidy hereafter granted, in addition to all other lawful requirements, shall be subject to any conditions which may be imposed by the Lieutenant-Governor in Council respecting the tolls to be charged to settlers or prospectors using any such subsidized railway or any part thereof in connection with their prospecting and settling in any district through which the railway runs, either for freight or passenger service. Subsidies to be subject to certain conditions as to special rates to settlers, etc.

(3) In default of compliance with such conditions, or any of them, there may be deducted and retained from any money payable in respect of the subsidy such amount as the Lieutenant-Governor in Council may deem proper, and the railway company or any assignee of a railway company claiming the subsidy shall not be entitled to receive payment of the same, or if the subsidy has been paid over prior to such default the company operating the railway shall forfeit such part thereof as may be determined by the Lieutenant-Governor in Council and the same may be recovered back from the company at the suit of the Attorney-General in any court of competent jurisdiction. Default.

(4) Every such subsidy shall further be subject to the condition that the workmen, labourers or servants employed in Current wages.

or about the construction and operation of the railway shall be paid such rate of wages as may be currently payable to workmen, labourers and servants engaged in similar occupations in the district in which the railway is constructed and operated, and upon breach of such condition by the railway company there may be deducted and retained from any money payable in respect of such unearned subsidy such amount as the Lieutenant-Governor in Council may deem proper, and if the subsidy has been paid over before such breach such part thereof as may be determined by the Lieutenant-Governor in Council may be recovered back from the railway company at the suit of the Attorney-General in any court of competent jurisdiction.

Where
supplies to
be pur-
chased.

(5) Every railway company entitled to a subsidy either in money or in land under any Act of the Legislature, the whole or part of which is still unearned, shall, as far as practicable, construct, equip and operate its lines of railway with railway supplies and rolling stock made, purchased or procured in Canada, if the same can be obtained as cheaply and upon as good terms in Canada as elsewhere, having regard to quality, unless the Lieutenant-Governor in Council approves of the same being procured elsewhere.

Alien
labour.

(6) No person shall be employed in the construction of any railway receiving a subsidy either in money or in land who is a citizen or subject of any country having an alien labour law which has the effect of excluding Canadians from employment upon the public works of such country or on other works therein.

Penalty.

(7) For every contravention of subsection 6 the company shall incur a penalty of \$20 per day for each person so employed during the whole period of such employment. R.S.O. 1937, c. 259, s. 270.

Subsidized
railways
must be in
safe and
efficient
condition.

271.—(1) Whenever it is made to appear to the Provincial Secretary that a railway owned by a company incorporated by Act of the Legislature, the construction of which has been aided by a subsidy from the Government of Ontario, cannot by reason of the condition of the railway or of its equipment be safely and efficiently operated, the Provincial Secretary may apply to the Board for an order that the railway, or its equipment, or both, shall be put in a safe and efficient condition, which order the Board is hereby authorized to make after such notice to the president or manager of the company and the trustee of the bondholders, if any, as to the Board seems reasonable, and the Board may, by order, direct what repairs, improvements or additions shall be made to the railway, or equipment, or both, and within what times the same shall be undertaken and completed respectively.

(2) If the company fails to comply with such order the Lieutenant-Governor in Council may, upon the recommendation of the Provincial Secretary, approve of the order, and direct that a copy of the order and of the order of the Lieutenant-Governor in Council approving thereof, certified by the secretary of the Board and the Clerk of the Executive Council respectively, shall be filed by the Provincial Secretary in the office of the registrar of deeds of each county through which the railway runs, and upon such orders being so filed there shall, *ipso facto*, be created a first lien or mortgage upon the railway and its equipment in favour of the Crown for the amount of the subsidy, which shall immediately thereupon become due and payable to the Crown.

On failure of company to comply with order, a lien may be created.

(3) Such lien may be enforced by the Crown in the same manner and by the like proceedings as any other lien upon property may be enforced by the Crown in the Supreme Court, and the court may order the railway and its equipment to be sold to satisfy the lien, and pending the lien may appoint a receiver to manage and operate the railway.

Enforcement of lien.

(4) Any money realized from such sale may, with the consent of the purchaser, be applied by the Provincial Secretary, under the direction of the Board, towards the repair and improvement of the railway and equipment so far as the same may be deemed necessary by the Provincial Secretary, and any money so realized, and not in the opinion of the Provincial Secretary required for such repairs and improvements, may be paid to the company owning the railway at the time of the sale, or to the trustee for bondholders, in the event of there being outstanding bonds secured by mortgage or otherwise upon the railway. R.S.O. 1937, c. 259, s. 271.

Application of money realized.

HOURS OF LABOUR

272. No company operating a line of railway of twenty miles in length or over shall require or permit a conductor, engineer, motorman, fireman, trainman, despatcher or signalman who has worked in any capacity for sixteen consecutive hours to go again on duty to perform any kind of work unless he has had at least six hours' rest. R.S.O. 1937, c. 259, s. 272.

Limit of duration of continuous employment.

273.—(1) The Board may regulate the hours during which conductors and motormen, employees of a street railway company, may be required or permitted to work, but in no case shall an employee be permitted to work more than six days in a week or ten hours per day, and, whenever practicable and reasonable, such ten hours' work shall be performed within twelve consecutive hours.

Power to regulate labour of street railway employees.

Agreements
not to affect
power to
regulate.

(2) The power conferred by subsection 1 may be exercised notwithstanding any agreement between a municipal corporation and a railway company as to hours of labour.

Penalty.

(3) Every company which, and every director, superintendent, manager or officer of a company who contravenes any order of the Board made under subsection 1, or contravenes any of the provisions of this section, shall be guilty of an offence and upon summary conviction shall for each contravention, be liable to a penalty of not less than \$100 and not more than \$250. R.S.O. 1937, c. 259, s. 273.

RETURNS

Annual
returns
to be
prepared.

274.—(1) Every company annually shall prepare returns in duplicate, in accordance with the forms for the time being required and furnished by the Board, of its capital, traffic, and working expenditure, and of all other information required.

Attestation.

(2) Such returns shall be dated and signed by, and attested upon the oath of the secretary or some other chief officer of the company, and shall also be attested upon the oath of the president, or in his absence of the vice-president or manager of the company.

What period
to be
included.

(3) Such returns shall be made for the period beginning from the date to which the then last yearly returns made by the company extend, or if no such returns have been previously made from the commencement of the operation of the railway and ending with the last day of December in the preceding year.

When to
be made.

(4) The duplicate so dated, signed and attested as aforesaid shall be transmitted by the company to the Board by registered post within three months after the last day of November in each year.

Transmission
of
returns to
Assembly.

(5) The Board shall transmit the returns so made to the Provincial Secretary and the same shall be laid before the Assembly forthwith if the Assembly is then in session, or if it is not in session within fifteen days after the commencement of the next session. R.S.O. 1937, c. 259, s. 274.

Return of
accidents to
be made
annually.

275.—(1) Every company annually, or more frequently if the Board so requires, shall make to the Board, under the oath of the president, secretary or superintendent of the company, a true and particular return in duplicate of all accidents and casualties, whether to persons or to animals or other property, which have occurred on the property of the company or in connection with the operation thereof, setting forth,

- (a) the causes and natures of the accidents and casualties;
- (b) the points at which the accidents and casualties occurred, and whether by night or by day; and
- (c) the full extent of the accidents and casualties, and all the particulars thereof.

(2) Such return shall be made for the period beginning from the date to which the then last return made by the company extended, or, if no such return has been made previously, from the commencement of the operation of the railway and ending with the last day of December in the preceding year. What period to be included.

(3) Every company shall also, when required by the Board, return a true copy of the existing by-laws of the company and of its rules and regulations for the management of the company and of its railway, or of such other undertaking or business of the company as it is authorized to carry on. R.S.O. 1937, c. 259, s. 275. Copies of by-laws to be furnished.

276. The Board may order and direct any company to make up and deliver to the Board from time to time, in addition to such periodical returns, returns of serious accidents occurring in the course of the public traffic upon the railway belonging to the company, whether attended with personal injury or not, in such form and manner as the Board deems necessary and requires for its information with a view to public safety. R.S.O. 1937, c. 259, s. 276. Additional returns of accidents.

277. The Board may order and direct the form in which such returns shall be made. R.S.O. 1937, c. 259, s. 277. Forms.

278.—(1) The Board may, from time to time, by notice served upon the company, or any officer, servant or agent of the company, require it, or such officer, servant or agent, to furnish the Board, at or within any time stated in the notice, a written statement or statements showing in so far, and with such detail and particulars, as the Board requires, Returns to Board of,

- (a) the assets and liabilities of the company; assets and liabilities;
- (b) the amount of its stock issued and outstanding and the date at which any such stock was issued; stock issued and outstanding;
- (c) the amount and nature of the consideration received by the company for such issue, and in case the whole of such consideration was not paid to the company in cash, the nature of the service rendered to or property received by the company for which any stock was issued; consideration for issue;

- earnings and expenditures; (d) the gross earnings or receipts or expenditure by the company during any periods specified by the Board, and the purposes for which such expenditure was made;
- bonuses; (e) the amount and nature of any bonus, gift or subsidy received by the company from any source whatsoever, and the source from which and the time when, and the circumstances under which, the same was so received or given;
- bonds; (f) the bonds issued at any time by the company, and what portion of the same are outstanding and what portion, if any, have been redeemed;
- consideration for bonds; (g) the amount and nature of the consideration received by the company for the issue of such bonds;
- secured liabilities; (h) the character and extent of any liabilities outstanding, chargeable upon the property or undertaking of the company, or any part thereof, and the consideration received by the company for any such liabilities, and the circumstances under which the same were created;
- cost of construction; (i) the cost of construction of the company's railway or of any part thereof;
- cost of property; (j) the amount and nature of the consideration paid or given by the company for any property acquired by it;
- leases and contracts; (k) the particulars of any lease, contract or arrangement entered into between the company and any other company or person; and
- generally. (l) generally, the extent, nature, value and particulars of the property, earnings, and business of the company.
- Powers of Board as to evidence respecting returns. (2) The Board may summon, require the attendance of, and examine under oath, any officer, servant or agent of the company, or any other person, as to any matters included in such return, or which were required by the notice aforesaid to be returned to the Board, and as to any matter or thing which, in the opinion of the Board, is relevant to such return, or to any inquiry which the Board deems it expedient to make in connection with any of the matters mentioned in this section, and for such purposes may require the production to the Board of any books or documents in control of the company, or of such officer, servant, agent or person.
- Information for Board only; (3) Any information furnished to the Board by any such return, or any evidence taken by the Board in connection

therewith, shall not be open to the public or published, but shall be for the information of the Board only.

(4) The Lieutenant-Governor in Council may nevertheless ^{or for Lieut.-Governor in Council.} require the Board to communicate to him in Council any or all information obtained by it in manner aforesaid.

(5) The Board may authorize any part of such information ^{Board may authorize publication.} to be made public when and in so far as there may appear to the Board to be good and sufficient reasons for so doing, but if the information so proposed to be made public by the Board is of such a character that the company would, in the opinion of the Board, be likely to object to the publication thereof, the Board shall not authorize the information to be published without notice to the company and hearing any objection which the company may make to the publication. R.S.O. 1937, c. 259, s. 278.

279. If any company or officer, servant or agent thereof ^{Refusal to make returns.} fails or neglects to make any of the returns required by this Act or by the Board under the authority thereof when and as required by the Board, or fails to make any such return to the utmost of its or his knowledge or means of knowledge, the company, and every such officer, servant or agent, so in default, shall be guilty of an offence and upon summary conviction shall severally be liable to a penalty of not more than ^{Penalties.} \$10 for every day during which such default continues. R.S.O. 1937, c. 259, s. 279.

280.—(1) If any company, or officer, servant or agent ^{Making false returns to Board.} thereof wilfully or negligently makes any false return, or any false statement in any such return, the company, and any such officer, servant or agent offending shall be guilty of an offence and upon summary conviction shall be severally liable to a penalty of not more than \$500.

(2) Every such officer, servant or agent so offending shall ^{Imprisonment.} also be liable to imprisonment for a term of not more than six months. R.S.O. 1937, c. 259, s. 280.

INVESTIGATION OF ACCIDENTS

281.—(1) Every company shall, as soon as possible, and ^{Notice of accident.} immediately after the head officers of the company have received information of the occurrence upon the railway belonging to the company of any accident attended with personal injury to any person using the railway or to any employee of the company, or whereby any bridge, viaduct, culvert or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof, with full particulars, to the Board.

Penalty for omission.

(2) Every company which wilfully and negligently omits to give such notice shall incur a penalty of \$100 for every day during which the omission to give the same continues.

Form of notice.

(3) The Board may, by regulation, declare the manner and form in which such information and notice shall be given and the class of accidents to which this section shall apply, and may declare any such information so given to be privileged.

Inquiries.

(4) The Board may inquire into all matters and things which it deems likely to cause or prevent accidents, and the causes of, and the circumstances connected with, any accident or casualty to life or property occurring on any railway, and into all particulars relating thereto.

Order thereupon.

(5) The Board may order the company to suspend or dismiss any employee of the company whom it may deem to have been wilfully negligent in respect of any such accident.

Inclusion in annual report.

(6) The Board shall include in its annual report to the Lieutenant-Governor in Council the result of any such inquiry with such recommendations as to it may seem proper. R.S.O. 1937, c. 259, s. 281.

When admissible as evidence.

282. Returns and notices relating to accidents made or given in pursuance of this Act shall not be admissible in evidence in any court except to enforce the penalties for failure or neglect to furnish a return where it is incomplete or inaccurate. R.S.O. 1937, c. 259, s. 282.

ANIMALS AT LARGE

Damages caused to or by cattle on railway.

283.—(1) When any horse, sheep, swine or other cattle at large, whether upon the highway or not, gets upon the property of the company and by reason thereof damage is caused to or by such animal the person suffering the damage shall, subject to section 284, be entitled to recover the amount of the damage in any court of competent jurisdiction unless the company establishes that the animal got at large through the negligence or wilful act or omission of the owner or his agent, or of the custodian of the animal or his agent; but nothing in this section shall be construed as relieving any person from the penalty imposed by section 285.

Cattle not allowed at large near railway.

(2) No horses, sheep, swine or other cattle shall be permitted to be at large upon any highway within half a mile of the intersection of the highway with any railway at rail level, unless they are in charge of a competent person to prevent their loitering or stopping on the highway at the intersection, or straying upon the railway.

When killed on property of company.

(3) The fact that any such animal was not in charge of a competent person shall not, if the animal was killed or injured

upon the property of the company and not at a point of intersection with the highway, deprive the owner of his right to recover.

(4) All horses, sheep, swine or other cattle found at large contrary to this section may, by any person who finds them at large, be impounded in the pound nearest to the place where the same are so found, and the poundkeeper with whom they are impounded shall detain them in like manner, and subject to like regulations as to the care and disposal thereof as in the case of cattle impounded for trespass on private property. Cattle may be impounded.

(5) If the horses, sheep, swine or other cattle of any person which are at large contrary to this section are killed or injured by any train at such point of intersection he shall not have any right of action against any company in respect of the same being so killed or injured. Right of action negatived.

(6) This section shall apply only to railways operating by steam or electricity upon a right-of-way owned by the company. R.S.O. 1937, c. 259, s. 283. Application of section.

284. No person who suffers damage, proveable under section 283, or by reason of the company failing to comply with section 114, shall have any right of action against such company for such damage if it was caused by reason of any person, No right of action if,

- (a) for whose use any farm crossing is furnished failing to keep the gates at each side of the railway closed when not in use; or gates not closed;
- (b) wilfully leaving open any gate on either side of the railway provided for the use of any farm crossing, without a person being at or near such gate to prevent animals from passing through the gate on to the railway; or or wilfully left open;
- (c) other than an officer or employee of the company while acting in the discharge of his duty taking down any part of a railway fence; or or fence taken down;
- (d) turning any such horse, sheep, swine or other cattle upon or within the enclosure of any railway, except for the purpose of and while crossing the railway in charge of a competent person using all reasonable care and precaution to avoid accidents; or or cattle turned within railway enclosure;
- (e) except as authorized by this Act, without the consent of the company, riding, leading or driving any such horse, sheep, swine or other cattle, or suffering the same to enter upon any railway, and within the fences and guards thereof. R.S.O. 1937, c. 259, s. 284. or railway used without consent.

OFFENCES AND PENALTIES

Offences,

285.—(1) Every person who,leaving
gates open;

(a) wilfully leaves open any gate on either side of the railway provided for the use of any farm crossing without a person being at or near such gate to prevent animals passing through it on to the railway; or

taking down
fences;

(b) not being an officer or employee of the company acting in the discharge of his duty, takes down any part of a railway fence; or

turning
animals
into railway
enclosure;

(c) turns any horse, sheep, swine or other cattle upon or within the enclosure of any railway, except for the purpose of and while crossing the railway in charge of a competent person, using all reasonable care and precaution to avoid accidents; or

allowing
animals to
go upon
railway.

(d) except as authorized by this Act, without the consent of the company, rides, leads or drives any horse, sheep, swine or other cattle, or suffers any such horse or animal to enter upon the railway, and within the fences and guards thereof,

shall be guilty of an offence and upon summary conviction shall for every such offence incur a penalty of \$20.

Damages to
the company.

(2) Every such person shall also be liable to the company for any damage to the property of the company, or for which the company may be responsible by reason of any such act or omission.

Damages to
person
injured.

(3) Every person guilty of an offence under this section shall, in addition to the penalty and liability therein provided, be liable to pay to any person injured by reason of the commission of such offence all damages thereby sustained. R.S.O. 1937, c. 259, s. 285.

Purchasing
stock in
other com-
panies.

286.—(1) No company shall, either directly or indirectly, employ any of its funds in the purchase of its own stock or in the acquisition of any shares, bonds or other securities issued by any other railway company; but this shall not affect the powers or rights, if any, which any company in Ontario now has or possesses by virtue of any special Act to acquire, have or hold shares, bonds or other securities of any railway company.

Idem.

(2) The acquisition of each share, bond or other security, or interest, shall be deemed a separate contravention of subsection 1.

Liability of
directors.

(3) Every director of a railway company who knowingly permits the funds of the company to be applied, either

directly or indirectly, in contravention of subsection 1 shall incur a penalty of \$500 for each such contravention.

(4) Such penalty shall be recoverable on information filed ^{Penalty. recovery and application.} in the name of the Attorney-General, and one-half thereof shall belong to the Crown and the other half thereof shall belong to the informer. R.S.O. 1937, c. 259, s. 286.

287.—(1) Every person not connected with the railway, ^{Walking on track prohibited.} or employed by the company, who walks along the track thereof, except where the same is laid across or along a highway, shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$10.

(2) Every person who, ^{Additiona offences,}

(a) wilfully breaks down, injures, weakens or destroys ^{destruction of property;} any gate, fence, erection, building or structure of a company;

(b) removes, obliterates, defaces or destroys any printed ^{defacing notices, etc.;} or written notice, direction, order, by-law or regulation of a company, or any section of or extract from this Act or any other Act of the Legislature which a company or any of its officers or agents have caused to be posted, attached or affixed to or upon any fence, post, gate, building or erection of the company, or any car upon any railway;

(c) enters upon any railway train without the knowledge ^{fraudulently attempting to travel without paying fare;} or consent of an officer or servant of the company with intent fraudulently to be carried upon such railway train without paying fare thereon;

(d) wilfully obstructs or impedes any officer or agent of ^{obstructing railway authorities;} any company in the execution of his duty upon any train, railway, or upon any of the premises of the company; or

(e) not being an employee of the company, wilfully tres- ^{trespassing.} passes by entering upon any of the stations, cars or buildings of the company in order to occupy the same for his own purposes,

shall be guilty of an offence and upon summary conviction ^{Penalty.} shall be liable to a penalty of not more than \$50. R.S.O. 1937, c. 259, s. 287.

288. Every person who uses any highway crossing at rail ^{Using level crossings.} level for the purpose of passing on foot along the highway across the railway, except during the time when the highway crossing is used for the passage of carriages, carts, horses,

sheep, swine or cattle along the highway shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$10, if,

Penalty

- (a) the company has erected and completed, pursuant to the order of the Board, over its railway at or near, or in lieu of, such highway crossing a foot-bridge, or foot-bridges, for the purpose of enabling persons passing on foot along the highway to cross the railway by means of the bridge or bridges; and
- (b) the foot-bridge is maintained, or the foot-bridges are maintained, by the company in good and sufficient repair. R.S.O. 1937, c. 259, s. 288.

Penalty for erection of structures in violation of this Act.

289. Every company which erects, operates or maintains any bridge, approach, tunnel, viaduct, trestle, or any building, erection or structure, in violation of this Act or of any order or regulation of the Board, shall, for each offence, incur a penalty of \$50. R.S.O. 1937, c. 259, s. 289.

Liability of company, directors, etc., in certain cases.

290.—(1) Any company, or any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for or employed by such company, that does, causes or permits to be done any matter, act or thing contrary to this or the special Act, or to the orders or directions of the Lieutenant-Governor in Council, or of the Board made hereunder, or omits to do any matter, act or thing thereby required to be done on the part of any such company or person, shall, if no other penalty is provided in this or the special Act for any such act or omission, incur, for each offence, a penalty of not less than \$20 and not more than \$5,000, in the discretion of the court before which the same is recoverable.

Penalty.

Liability for damage.

(2) Such company, director, officer, receiver, trustee, lessee, agent or person shall also, in any case, in addition to any such penalty, be liable to any person injured by any such act or omission for the full amount of damages sustained thereby, and such damages shall not be subject to any special limitation, except as expressly provided for by this or any other Act. R.S.O. 1937, c. 259, s. 290.

Selling liquor to employees on duty.

291. Every person who sells, gives or barter any spirituous or intoxicating liquor to or with any servant or employee of any company while on duty shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$25. R.S.O. 1937, c. 259, s. 291.

Intoxication while on duty.

292. Every conductor, locomotive engineer, motorman, train despatcher, telegraph operator, station agent, switchman, signal man, bridge tender, or any other person who is

intoxicated or under the influence of liquor while on duty, in charge of or in any employment having to do with the movement of trains upon any railway, shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$400, and shall also be liable to imprisonment for a term of not more than five years, or both, in the discretion of the court before which the conviction is had, and according as such court considers the offence proved to be more or less grave as causing injury to any person or property, or as exposing or likely to expose any person or property to injury, although no actual injury occurs. R.S.O. 1937, c. 259, s. 292.

293. Every person who wilfully or negligently violates any lawful by-law, rule or regulation of the company shall be guilty of an offence and upon summary conviction shall be liable to, for each offence, a penalty of not more than the amount therein prescribed or, if no amount is so prescribed, a penalty of not more than \$20, but no such person shall be convicted of any offence unless at the time of the commission thereof a printed copy of such by-law, rule or regulation was posted in a conspicuous place at or near the station at which the offender entered the train or in the passenger cars of the train. R.S.O. 1937, c. 259, s. 293.

- 294.** Every person who unlawfully,
- (a) bores, pierces, cuts, opens or otherwise injures any cask, box or package which contains wine, spirits or other liquors, or any case, box, sack, wrapper, package or roll of goods in, on or about any car, wagon, boat, vessel, warehouse, station, wharf, quay or premises of or belonging to any company; or
 - (b) drinks or wilfully spills or allows to run to waste any such liquors or any part thereof,

Additional offences,

damaging freight with intent to steal contents;

drinking or wasting liquor.

shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not more than \$20, and shall be liable to the person aggrieved for any damages sustained by reason of such wrongful act. R.S.O. 1937, c. 259, s. 294.

295. Every person who wilfully breaks down, injures, weakens, destroys or interferes with any pole, wire, insulator, structure or erection for carrying wires of an electric railway company, or for the transmission of electric power, or who shoots at any insulator on any such poles, erections or structures with fire-arms of any kind, or throws stones or other missiles at, or breaks, or attempts to break the same in any way, or flings or causes to be placed any wire, rope, string or stick at, upon or across the wires, or without authority climbs

Interfering with electric wires, poles or notices.

any of such poles or structures or erections used for transmitting electric current, or removes, obliterates, defaces or destroys any printed or written notice, direction, order, by-law or regulation of the Board or of the company or any section or extract from this Act or any other Act of the Legislature, attached or affixed to or upon any pole, tower, fence, post, gate, building or erection of the company, shall be guilty of an offence and upon summary conviction shall be liable to a penalty of not less than \$15 and not more than \$100. R.S.O. 1937, c. 259, s. 295.

Each day's
contra-
vention a
new offence.

296. When the violation of, or failure to comply with, any provision of this Act, or with any regulation, order or direction of the Board, or of any inspecting engineer, is made an offence subject to penalty by this Act or by any regulation made thereunder, each day's continuance of such violation or failure to comply shall constitute a new and distinct offence. R.S.O. 1937, c. 259, s. 296.

Offence by
an officer
deemed to
be that of
company.

297.—(1) For the purpose of enforcing any penalty under this Act, or enforcing any regulation, order, or direction of the Board, or of any inspecting engineer, made under this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by the company shall, if within the scope of his employment, in every case be also deemed to be the act, omission or failure of the company as well as that of the person.

Offences by
company in
its corporate
character.

(2) Anything done or omitted to be done by the company, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by the company, would constitute an offence under this Act, shall also be held to be an offence committed by the company, and upon conviction thereof the company shall be subject to the like penalties as are prescribed by this Act with reference to such persons. R.S.O. 1937, c. 259, s. 297.

Punishment
for an offence
not to
exempt
company
from
forfeiture.

298. No penalty or punishment for a contravention of this Act or of the special Act by the company shall exempt the company from the forfeitures of the privileges or franchise conferred on it by such Acts, or by any agreement between the company and any municipal corporation if, by the provisions thereof or by law, the same be subject to forfeiture by reason of such contravention. R.S.O. 1937, c. 259, s. 298.

RECOVERY OF PENALTIES

Penalties
to be a first
charge on
assets of
company.

299. If any company has been adjudged to pay a penalty under this Act such penalty shall be the first lien or charge

upon the railway, property, assets, rents and revenues of the company. R.S.O. 1937, c. 259, s. 299.

300. No prosecution shall be had against any company or any municipal corporation for any penalty under this Act where the penalty may exceed \$100 without the leave of the Board being first obtained. R.S.O. 1937, c. 259, s. 300.

Prosecution for penalty exceeding \$100.

301. All penalties incurred under this Act, unless otherwise provided, may be recovered by action in the name of His Majesty by the Attorney-General, and all penalties recovered under this Act shall, unless otherwise expressly provided herein, be paid to the Treasurer of Ontario to the credit of the Consolidated Revenue Fund. R.S.O. 1937, c. 259, s. 301.

Recovery and application of penalties.

TRANSMISSION OF POWER ON RIGHT-OF-WAY

302. Upon receiving authority in that behalf from the Lieutenant-Governor in Council, the Board, its officers, agents and servants may at all times enter upon the right-of-way of the company and may dig up the same, erect thereon all necessary poles, or lay all necessary conduits, and erect, place and put down all cables, wires and poles for the transmission of electrical or other power from any point in Ontario to the works and plant of any municipal corporation for the distribution of such power within the limits of the municipality, but the track and traffic, wires and poles of the company shall not be injured, removed or otherwise dealt with in the exercise of the powers hereby conferred except under and subject to any agreement which may be entered into between the Lieutenant-Governor in Council and the company. R.S.O. 1937, c. 259, s. 302.

Crown may use right-of-way for the transmission of power to municipalities.

USE OF RAILWAY BY FEDERAL GOVERNMENT

303.—(1) His Majesty's mail, His Majesty's naval, military, or air forces or militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others travelling on His Majesty's service shall at all times, when required by the Postmaster-General, the commander of the forces, or any person having the superintendence and command of any police force, and with the whole resources of the company if required, be carried on the railway on such terms and conditions and under such regulations as may be made by the Governor-General in Council or the Lieutenant-Governor in Council.

Provision as to the carriage of His Majesty's mail, etc.

(2) The company shall, when required so to do by the Governor-General or Lieutenant-Governor, or by any person thereunto authorized by either of them, place any electric,

Government to have exclusive use of telegraph.

telegraph and telephone lines, and any apparatus and operators which it has, at the exclusive service of his Government, receiving thereafter reasonable compensation for the service. R.S.O. 1937, c. 259, s. 303.

CONVEYANCES OF LAND

Convey-
ances of
land to
company.

304. Conveyances of land to the company, for the purposes of and powers given by this Act, made in the following form or to the like effect, shall be sufficient conveyance to the company, its successors and assigns of the estate or interest therein mentioned, and sufficient bar of dower respectively of all persons executing the same, and such conveyances shall be registered in the same manner, and upon such proof of execution as is required under the registry laws of Ontario:

Know all men by these presents that I (or we) (*insert the name or names of the vendor or vendors*) in consideration of dollars paid to me (or us) by The Railway Company, the receipt whereof is hereby acknowledged, do grant and convey unto the said company, and I (or we) (*insert the name or names of any other party or parties*) in consideration of dollars paid to me (or us) by the said company, the receipt whereof is hereby acknowledged, do grant and release all that certain parcel (*or those certain parcels, as the case may be*) of land (*describe the land*) the same having been selected and laid out by the said company for the purpose of its railway, to hold with the appurtenances unto the said The Railway Company, their successors and assigns forever (*here insert any other clauses, covenants and conditions required*), and I (or we) the wife (or wives) of the said do hereby bar my (or our) dower in the said lands.

As witness my (or our) hand and seal (or hands and seals), this
..... day of..... one thousand nine hundred and

Signed, sealed and delivered
in the presence of

R.S.O. 1937, c. 259, s. 304.

CHAPTER 332

The Real Estate and Business Brokers Act**1. In this Act,**Interpre-
tation.

- (a) "broker" means a person who, for another or others, for compensation, gain or reward or hope or promise thereof, either alone or through one or more officials or salesmen, trades in real estate, and a person who holds himself out as such;
- (b) "business" means an undertaking carried on for the purpose of gain or profit and includes an interest in any such undertaking, and without limiting the generality of the foregoing, includes boarding house, hotel, store, tourist camp and tourist home;
- (c) "official" includes president, vice-president, secretary, treasurer, managing director, general manager, department manager, branch office manager and every person acting in a similar capacity whether so designated or not;
- (d) "prescribed" means prescribed by this Act or the regulations;
- (e) "real estate" includes real property, leasehold and business whether with or without premises, fixtures, stock-in-trade, goods or chattels in connection with the operation of the business;
- (f) "register" means register under this Act;
- (g) "Registrar" means Registrar of Real Estate and Business Brokers;
- (h) "regulations" means regulations made under this Act;
- (i) "salesman" means a person employed, appointed or authorized by a broker to trade in real estate;
- (j) "Superintendent" means Superintendent of Insurance;
- (k) "trade" includes a disposition or acquisition of or transaction in real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise and any offer or attempt to list real estate for the purpose of such a disposition or transaction, and any act, advertisement, conduct or negotiation, directly

or indirectly, in furtherance of any disposition, acquisition, transaction, offer or attempt, and the verb "trade" has a corresponding meaning. 1946, c. 85, s. 1.

REGISTRAR

Registrar of
Real Estate
and Business
Brokers.

2. (1) There shall be a Registrar of Real Estate and Business Brokers who shall be appointed by the Lieutenant-Governor in Council.

Powers and
duties of
Registrar.

(2) The Registrar may exercise the powers and shall discharge the duties conferred and imposed upon him by this Act and the regulations under the supervision of the Superintendent. 1946, c. 85, s. 2.

REGISTRATION

Registration
of brokers,
salesmen,
officials.

3.—(1) No person shall,

- (a) trade in real estate unless he is registered as a broker or salesman of a registered broker;
- (b) act as an official of or on behalf of a partnership or company in connection with any trade in real estate by the partnership or company, unless he or the partnership or company is registered as a broker; or
- (c) act as a salesman of or on behalf of any partnership or company in connection with any trade in real estate by the partnership or company, unless he is registered as a salesman of the partnership or company and the partnership or company is registered as a broker.

Change in
partnership.

(2) Any change in the membership of a partnership shall be deemed to create a new partnership and to extinguish any existing registration. 1946, c. 85, s. 3.

Salesman,
registration
of.

4.—(1) A salesman may only be registered where he is the salesman of a registered broker.

Suspension
of registra-
tion.

(2) The termination of the employment of a salesman with a registered broker shall operate as a suspension of the registration of the salesman until notice in writing has been received by the Registrar from a registered broker of the employment of the salesman. 1946, c. 85, s. 4.

Temporary
registration.

5. The Registrar may grant or refuse to grant temporary registration or temporary renewal of registration to any applicant therefor and shall forthwith report to the Superintendent any action taken by him upon any such application. 1946, c. 85, s. 5.

6. The Superintendent shall grant registration or renewal of registration to an applicant where in the opinion of the Superintendent the applicant is suitable for registration and the proposed registration is not objectionable. 1946, c. 85, s. 6. Registration.

7. The Superintendent shall suspend or cancel any registration where in his opinion such action is in the public interest. 1946, c. 85, s. 7. Suspension, cancellation.

8. Notwithstanding any order of the Superintendent a further application may be made upon new or other material or where it is clear that material circumstances have changed. 1946, c. 85, s. 8. Further applications.

9.—(1) Every application shall be made in writing upon the prescribed form to be provided by the Superintendent and shall be accompanied by such fee as may be prescribed and a bond in such amount and form, subject to section 18, as may be prescribed. 1946, c. 85, s. 9. Application to be upon forms with proper fees and bonds.

(2) The bond shall be, Type of bond.

(a) the bond of a guarantee company approved under *The Guarantee Companies Securities Act*; Rev. Stat. c. 162.

(b) a personal bond accompanied by collateral security; or

(c) the bond of a guarantor, other than a guarantee company, accompanied by collateral security.

(3) The collateral security shall be negotiable securities of the classes prescribed by the regulations not less in value than the sum secured by the bond, and shall be deposited with the Treasurer of Ontario. 1947, c. 93, s. 1. Collateral security.

10. Every applicant shall state in the application an address for service in Ontario and all notices under this Act or the regulations shall be sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. 1946, c. 85, s. 10. Address for service.

11. The Registrar may, and shall when so directed by the Superintendent, require further information or material to be submitted by any applicant or any registered person within a specified time limit and may require verification by affidavit or otherwise of any information or material then or previously submitted. 1946, c. 85, s. 11. Further information.

12.—(1) Registration, in the absolute discretion of the Superintendent, may be refused to any person either as a Residence.

broker or salesman who has not been a resident of Ontario for at least one year immediately prior to the date of application with the intention of making his permanent home in Ontario unless at the time of the application the person is registered either as a broker or salesman under the laws relating to real estate and business brokers and salesmen of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of such application and is otherwise suitable for registration.

Service in
forces.

(2) For the purposes of this section a person shall not be deemed to cease to reside in Ontario by reason only of his absence from Ontario as a member of His Majesty's armed forces. 1946, c. 85, s. 12.

Temporary
registration
on death
of broker.

13.—(1) Where a registered broker who carries on business as an individual broker dies, the Registrar may,

- (a) grant to the executor or administrator of such broker temporary registration as a broker for a period of not more than six months in respect of the business of the deceased broker; and
- (b) exempt any such executor or administrator from passing a written examination.

Salesmen
of deceased
broker.

(2) All salesmen registered as salesmen of the deceased broker at the time of his death, shall be deemed to be registered as salesmen of such executor or administrator. 1950, c. 68, s. 1.

Termination
and renewal
of registra-
tion.

14. Every registration and renewal of registration shall lapse on the 31st day of March in each year and every registered broker and salesman shall apply for renewal of registration on or before the 21st day of March giving full particulars of any change in the facts set forth in the latest application form on record and enclosing the prescribed fee as upon a first application. 1946, c. 85, s. 13.

Change in
registration
of broker;

15.—(1) Every registered broker shall notify the Registrar in writing of,

- (a) any change in the address for service;
- (b) any change in the partners in the case of a partnership; and
- (c) the commencement and termination of employment of every salesman.

salesman;

(2) Every registered salesman shall notify the Registrar in writing of,

- (a) any change in his address for service; and

- (b) every commencement and termination of his employment by a registered broker. 1946, c. 85, s. 14.

16.—(1) The Registrar shall cause all cash, cheques, money orders and postal notes to be deposited daily with the Registrar to make daily deposit.
Treasurer of Ontario for payment into the Consolidated Revenue Fund.

(2) Where an application for registration is refused, or is granted after the 30th day of September, or a registration is cancelled, the Superintendent may recommend to the Treasurer of Ontario that a refund of the fee or of such part thereof as he deems fair and reasonable be made and the Treasurer may make such refund. 1946, c. 85, s. 15.

EXEMPTIONS

17. Registration shall not be required in respect of any trade in real estate by,

- (a) any assignee, custodian, liquidator, receiver, trustee or other person acting under the *Bankruptcy Act* (Canada), *The Companies Act*, *The Judicature Act*, *R.S.C., 1927, c. 11.* the *Winding-up Act* (Canada), or to any person acting under the order of any court, or any executor or trustee selling under the terms of a will, marriage settlement or deed of trust; *Rev. Stat., c. 59, 190; R.S.C., 1927, c. 213.*
- (b) any auctioneer where the trade is made in the course of and as part of his duties as auctioneer;
- (c) any person who is registered under *The Securities Act*, where the trade is made in the course of and as part of his business in connection with a trade in securities; *Rev. Stat., c. 351.*
- (d) any bank or any loan, trust or insurance company trading in real estate owned or administered by the company;
- (e) any person in respect of any mine or mining property within the meaning of *The Mining Act* and in respect of the real estate included in any Crown grant or lease of a mining claim or mineral lands under *The Mining Act* or any Act for which the same is substituted; *Rev. Stat., c. 236.*
- (f) a full-time salaried employee of a party to a trade where the employee is acting for or on behalf of his employer;
- (g) any person who is practising as a solicitor of the Supreme Court where the trade is made in the course of and as part of the solicitor's practice;

- (h) any person, on his own account, in respect of his real estate, where such trade did not result from,
 - (i) an offer of such person to act, in connection with such trade or any other trade, for or on behalf of the other party or one of the other parties to the trade, or
 - (ii) a request that such person act, in connection with such trade or any other trade, for or on behalf of the other party or one of the other parties to the trade,

and the interest of such person in the real estate was acquired prior to such offer or request; or

- (i) any person specifically exempted by the regulations in respect of any class of trades in real estate. 1946, c. 85, s. 16; 1947, c. 94, s. 1; 1950, c. 68, s. 2.

FORFEITURE OF BOND

Forfeiture
of bond.

18.—(1) Any bond mentioned in section 9 shall be forfeit and the amount thereof shall become due and owing by the person bound thereby as a debt due the Crown in right of Ontario,

- (a) where a broker, including any member of a partnership or salesman, in respect of whose conduct the bond has been conditioned has been convicted of,
 - (i) an offence under this Act, or
 - (ii) an offence involving fraud or theft or conspiracy to commit an offence involving fraud or theft under the *Criminal Code* (Canada);
- (b) where judgment based on a finding of fraud has been given against the broker, including any member of a partnership, or salesman in respect of whose conduct the bond is conditioned; or
- (c) where proceedings by or in respect of a broker, including any member of a partnership, or salesman, in respect of whose conduct the bond is conditioned, have been taken under the *Bankruptcy Act* (Canada) or by way of winding up and a receiving order under the *Bankruptcy Act* (Canada) or a winding-up order has been made,

R.S.C.,
1927, c. 36.

R.S.C.,
1927, c. 11.

and such conviction, judgment or order has become final by reason of lapse of time or of having been confirmed by the highest court to which an appeal may be taken. 1946, c. 85, s. 17 (1).

(2) A bond may be cancelled by any person bound thereunder by giving to the Registrar at least two months notice in writing of intention to cancel and it shall be deemed to be cancelled on the date stated in the notice, which date shall be not less than two months after the receipt of the notice by the registrar. Cancellation of bond.

(3) For the purposes of every act and omission occurring during the period of registration or the period prior to cancellation under subsection 2, every bond shall continue in force and the collateral security, if any, shall remain on deposit for a period of two years after the lapse or cancellation of the registration to which it relates, or the cancellation of the bond, whichever occurs first. 1947, c. 93, s. 2. Term of bond.

19. Where a bond secured by the deposit of collateral security with the Treasurer of Ontario is forfeited under section 18, the Lieutenant-Governor in Council may direct the Treasurer to sell the collateral security at the current market price. 1947, c. 93, s. 3. Sale of collateral security.

20. Where His Majesty becomes a creditor of any person in respect of a debt to the Crown arising from the provisions of section 18, the Superintendent may take such proceedings as he shall see fit under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Companies Act* or the *Winding-up Act* (Canada) for the appointment of an interim receiver, custodian, trustee, receiver or liquidator, as the case may be. 1946, c. 85, s. 18. Proceedings to enforce forfeiture. R.S.C., 1927, c. 11, Rev. Stat., c. 190, 59; R.S.C., 1927, c. 213.

21. The Lieutenant-Governor in Council may direct the Treasurer of Ontario, Assignment of bond or payment of moneys to creditors.

- (a) to assign any bond forfeited under section 18 and transfer the collateral security, if any;
- (b) to pay over any moneys recovered under such bond; or
- (c) to pay over any moneys realized from the sale of the collateral security under section 19,

to any person, or to the Accountant of the Supreme Court in trust for such persons as may become judgment creditors of the person bonded or who deposited the securities, as the case may be, or to any trustee, custodian, interim receiver, receiver or liquidator of such person, as the case may be. 1947, c. 93, s. 4.

22. Where a bond has been forfeited under section 18 by reason of a conviction or judgment under clause *a* or *b* of subsection 1 thereof and the Superintendent has not, within two Where no claims against proceeds of bond.

years of such conviction or judgment becoming final, or of the broker or salesman in respect of whom the bond was furnished ceasing to carry on business as such, whichever occurs first, received notice in writing of any claim against the proceeds of the bond or of such portion thereof as remains in the possession of the Treasurer of Ontario, the Lieutenant-Governor in Council may direct the Treasurer to pay such proceeds or portion thereof to the broker or salesman, or to any person who upon forfeiture of the bond made any payments thereunder, after first deducting the amount of any expenses which have been incurred in connection with any investigation or otherwise relating to such broker or salesman. 1946, c. 85, s. 20; 1947, c. 93, s. 5.

INVESTIGATION AND ACTION BY SUPERINTENDENT

Order to
investigate.

23.—(1) Where upon a statement made under oath it appears probable to the Superintendent that any person has,

(a) violated any of the provisions of this Act or the regulations; or

R.S.C.,
1927, c. 36.

(b) committed an offence under the *Criminal Code* (Canada) in connection with a trade in real estate,

the Superintendent may appoint the Registrar or any other person to make such investigation as he deems expedient for the due administration of this Act and any such order shall determine and prescribe the scope of the investigation.

Scope of
investigation.

(2) For the purposes of any such investigation the person appointed to make the investigation may investigate, inquire into and examine the affairs of the person in respect of whom the investigation is being made and into any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person and into any property, assets or things owned, acquired or alienated in whole or in part by such person or by any person acting on behalf of or as agent for such person.

Power to
summon
witnesses
and require
production.

(3) For the purposes of any such investigation the person making the investigation shall have the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things as is vested in the Supreme Court or a judge thereof for the trial of civil actions, provided that,

(a) the provisions of rules of court or of law relating to the service of subpoenas upon and to the payment of conduct money or witness fees to witnesses shall not apply;

- (b) no person shall be entitled to claim any privilege in respect of any document, record or thing asked for, given or produced on the ground that he might be incriminated or exposed to a penalty or to civil litigation thereby;
- (c) no person shall refuse to answer any question upon any ground of privilege, provided that a solicitor shall not be required to disclose any communications between himself and his client; and
- (d) no provisions of *The Evidence Act* shall exempt any bank or any officer or employee thereof from the operations of this section. Rev. Stat., c. 119.

(4) The person appointed to make any such investigation may seize and take possession of any documents, records, securities or other property of the person whose affairs are being investigated. Seizure of property.

(5) Where any such investigation is ordered the Superintendent may appoint an accountant or other expert to examine documents, records, properties and matters of the person whose affairs are being investigated. Accountant; other experts.

(6) Every person appointed under subsection 1 or 5 shall report the result of his investigation or examination to the Superintendent. 1946, c. 85, s. 21. Report of investigation.

24. Where upon the report of an investigation made under section 23 it appears to the Superintendent that any person may have, Report to Attorney-General.

- (a) violated any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to real estate, R.S.C., 1927, c. 36.

the Superintendent shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Superintendent relating thereto, to the Attorney General. 1946, c. 85, s. 22.

25. Notwithstanding section 23, the Attorney-General may by order appoint any person, including the Superintendent or the Registrar, to make an investigation into any matter relating to a trade in real estate, in which case the person so appointed shall for the purposes of the investigation have the same authority, powers, rights and privileges as a person appointed under section 23. 1946, c. 85, s. 23. Investigation under order of Attorney-General.

Evidence
not to be
disclosed.

26. No person other than the Superintendent, the Registrar, a person appointed by the Superintendent under section 23 or a person appointed by the Attorney-General under section 25, shall without the consent of one of them, disclose any information or evidence obtained or the name of any witness examined or sought to be examined under section 23 or 25. 1946, c. 85, s. 24.

Reporting to
Attorney-
General,
publication
of report.

27. Where an investigation has been made under section 23 the Superintendent may, and where an investigation has been made under section 25 the person making the investigation shall, report the result thereof including the evidence, findings, comments and recommendations to the Attorney-General, and the Attorney-General may cause the report to be published in whole or in part in such manner as he deems proper. 1946, c. 85, s. 25.

Order to
hold or re-
frain from
dealing with
funds.

28.—(1) The Superintendent may,

- (a) where he is about to investigate or during or after the investigation of any person under section 23 or 25; or
- (b) where criminal proceedings or proceedings in respect of a violation of this Act or the regulations are about to be or have been instituted against any person which in the opinion of the Superintendent are connected with or arise out of any trade in real estate or out of any business conducted by such person,

in writing or by telegram direct any person having on deposit or under control or for safe keeping any funds or securities of the person referred to in clause *a* or *b*, to hold such funds or securities or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such funds or securities from any other person having any of them on deposit, under control or for safe keeping or to hold such funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Companies Act*, or the *Winding-up Act* (Canada), or until the Superintendent in writing revokes such direction or consents to release any particular fund or security from such direction, provided that in the case of a bank, loan or trust company the direction shall only apply to the offices, branches or agencies thereof named in the direction.

R.S.C.,
1927, c. 11.
Rev. Stat.,
cc. 190, 59.

R.S.C.,
1927, c. 213.

Application
for direction.

(2) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any funds or security, or in case of a claim being made thereto by any person not named in the direction, may apply to the

Supreme Court or a judge thereof who may direct the disposition of such funds or security and may make such order as to costs as may seem just.

(3) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Superintendent may in writing or by telegram notify any registrar of deeds or master of titles or any local master of titles that proceedings are being or are about to be taken which may affect land belonging to the person referred to in the notice which notice shall be registered against the lands mentioned therein and shall have the same effect as the registration of a certificate of *lis pendens*, save that the Superintendent may in writing revoke or modify the notice. 1946, c. 85, s. 26.

APPEALS

29. A notice of every direction, decision, order or ruling of the Superintendent granting or refusing to grant registration or renewing, refusing to renew, suspending, cancelling or changing the registration of any broker or salesman shall be served upon the applicant, broker or salesman whose registration is thereby affected at the address appearing in the application or upon the records of the Registrar. 1946, c. 85, s. 27.

30.—(1) An applicant, broker or salesman whose registration is affected by a direction, decision, order or ruling referred to in section 29 may, by notice in writing served upon the Registrar within 30 days after the mailing of the notice, request a hearing and review by the Superintendent of the direction, decision, order or ruling.

(2) Where a hearing and review is requested under subsection 1, the Registrar shall send a notice in writing of the time and place thereof to the person requesting the hearing and review stating the date and place thereof.

(3) Upon a review the Superintendent may hear such evidence as may be submitted to him by the person requesting the review or by any other person and which in the opinion of the Superintendent is relevant to the review but shall not be bound by the technical rules of evidence and all oral evidence submitted shall be taken down in writing and together with such documentary evidence and things as are received in evidence by the Superintendent shall form the record.

(4) Upon a review the Superintendent may by order confirm or revoke the direction, decision, order or ruling under review or may make such alteration therein or addition thereto as he may deem proper.

Notice.

(5) Notice of the order made upon a review shall be sent forthwith to the person requesting the review. 1946, c. 85, s. 28.

Appeal to
Supreme
Court.

31.—(1) Where the Superintendent has reviewed a direction, decision, order or ruling under section 30, the person who requested the review may appeal to a justice in appeal of the Supreme Court.

Form of
appeal.

(2) Every appeal shall be by notice of motion served upon the Registrar within 30 days after the mailing of the notice under subsection 5 of section 30 and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, provided that the Rules Committee may vary or amend such practice and procedure or may prescribe the practice and procedure which shall be applicable to appeals taken under this Act.

Certificate
of Registrar.

(3) The Registrar shall certify to the Registrar of the Supreme Court,

- (a) the direction, decision, order or ruling which has been reviewed by the Superintendent;
- (b) the order of the Superintendent upon the review, together with any statement of reasons therefor;
- (c) the record of the review; and
- (d) all written submissions to the Superintendent or other material which in the opinion of the Registrar are relevant to the appeal.

Counsel.

(4) The Attorney-General may designate counsel to assist the court upon the hearing of any appeal taken under this section. 1946, c. 85, s. 29.

Order of
court.

32. Where an appeal is taken under section 31, the court may by its order direct the Superintendent to make such direction, decision, order or ruling or to do such other act as the Superintendent is authorized and empowered to do under this Act or the regulations and as the court deems proper having regard to the material and submissions before it and to this Act and the regulations, and the Superintendent shall make such direction, decision, order or ruling or do such act accordingly. 1946, c. 85, s. 30.

Further
direction,
etc.

33. An order of the court shall be final and there shall be no appeal therefrom, but notwithstanding the order the Superintendent shall have power to make any further direction, decision, order or ruling upon new material or where

there is a material change in the circumstances and every such direction, decision, order or ruling shall be subject to the provisions of section 29 to 32. 1946, c. 85, s. 31.

REGULATION OF TRADING

34.—(1) Every broker shall keep a sales record sheet in a form prescribed by the Superintendent and proper books and accounts with respect to his trades in real estate and shall enter therein in the case of each trade, Books, etc., to be kept.

- (a) the nature of the trade;
- (b) a description of the real estate involved sufficient to identify it;
- (c) the true consideration for the trade;
- (d) the names of all parties to the trade;
- (e) the amount of desposit received and a record of the disbursement thereof; and
- (f) the amount of his commission or other remuneration and the name of the party paying it. 1946, c. 85, s. 32 (1); 1950, c. 68, s. 3.

(2) Every broker shall maintain a trust account for every person from whom trust moneys are received in which shall be entered full details of all trust moneys so received and disbursements therefrom. 1946, c. 85, s. 32 (2). Trust ledgers

35. Every broker shall maintain an account in a chartered bank, loan or trust company or Province of Ontario Savings Office in which shall be deposited all moneys which come into his hands in trust for other persons in connection with his business, and he shall at all times keep such moneys separate and apart from moneys belonging to himself or to the partnership, in the case of a partnership. 1946, c. 85, s. 33. Bank account.

36.—(1) The Registrar may at any time make an inspection of the books, documents and records of any broker. Inspection of books, accounts, etc.

(2) Upon any such inspection the Registrar shall be entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the broker, and no person shall withhold or destroy, conceal or refuse to furnish any information or thing reasonably required by the Registrar for the purposes of the inspection. 1946, c. 85, s. 34. Free access to books, etc.

37. Every broker shall, when required by the Superintendent, file a certificate satisfactory to the Superintendent as to his financial position which shall be signed by an accountant Certificate as to financial position.

approved by the Superintendent, and by the broker, or in the case of a partnership, by all the members of the partnership. 1946, c. 85, s. 35.

Action for
commission
or remunera-
tion.

38. No action shall be brought for commission or for remuneration for services in connection with a trade in real estate unless at the time of rendering the services the person bringing the action was registered or exempt from registration and the court may stay any such action at any time upon summary application. 1946, c. 85, s. 36.

Idem.

39. No action shall be brought to charge any person for the payment of a commission or other remuneration for the sale, purchase, exchange or leasing of real estate,

- (a) unless the agreement upon which the action is to be brought is in writing and signed by the party to be charged therewith or some person thereunto by him lawfully authorized; or
- (b) unless the broker or his salesman has obtained an offer in writing which is accepted; or
- (c) unless the broker having been authorized in writing to list the property,
 - (i) shows the property to the purchaser, or
 - (ii) introduces the purchaser to the vendor for the purpose of discussing the proposed sale, purchase, exchange or leasing. 1946, c. 85, s. 37; 1947, c. 93, s. 6.

Promises to
re-sell
forbidden.

40. No broker or salesman shall make any representation that he or any other person will,

- (a) re-sell or in any way guarantee or promise to re-sell any real estate offered for sale by him;
- (b) sell any of the purchaser's real estate;
- (c) procure a mortgage, extension of a mortgage, lease or extension of a lease,

unless at the time of making the representation the person making it delivers to the person to whom the representation is made a letter or photostatic copy thereof, setting forth the representation in clear language. 1946, c. 85, s. 38.

Carrying on
business as
individual.

41. A broker carrying on business alone and not through an incorporated company shall carry on business in his own name only and shall not use any description, words or device which would indicate that his business is being carried on by more than one person or by a company, provided, however,

that a surviving or remaining partner may carry on business in the name of the original partnership, but shall publish on all letterheads and circulars used by him in connection with his business the fact that he is the sole proprietor thereof. 1946, c. 85, s. 39; 1947, c. 93, s. 7.

42. No broker or salesman shall trade in real estate until notified in writing by the Registrar that he is registered. 1946, c. 85, s. 40.

Broker not to trade until notified of registration.

43. A person who is not registered shall neither directly nor indirectly hold himself out as being a broker or salesman. 1946, c. 85, s. 41.

Unregistered person not to act as broker.

44. Every partnership and incorporated company registered as a broker shall publish the names of every person having an interest either directly or indirectly to the extent of not less than 10 per cent in the capital of the partnership or company as the case may be, on all letterheads and circulars in which the name of the partnership or company appears. 1946, c. 85, s. 42.

Names of officers.

45. Every broker shall, when advertising to purchase, sell, exchange or lease real estate, clearly indicate his own name as being the party advertising and that he is a broker, and any reference to the name of the salesman in the advertisement shall clearly indicate the broker as being the employer of the salesman. 1946, c. 85, s. 43.

Advertising.

46. No broker shall employ, permit or engage the salesman of another broker or an unregistered person to trade in real estate nor shall a broker pay commission or other remuneration to any such salesman or person. 1946, c. 85, s. 44; 1949, c. 87, s. 1.

Employment of unregistered person or salesman of other broker.

47. No salesman shall trade in real estate on behalf of any broker other than the broker who, according to the records of the Superintendent, is his employer, and no salesman shall be entitled to or accept any commission or other remuneration for trading in real estate from any person except the broker who is registered as his employer. 1946, c. 85, s. 45.

Salesmen trading for other brokers.

48. No broker or salesman shall purchase for himself or make an offer to purchase for himself either directly or indirectly real estate listed with him for sale, nor shall he acquire any interest therein, either directly or indirectly, until he has clearly disclosed to the listing owner complete details of his negotiations for the sale of the real estate to any other person. 1946, c. 85, s. 46.

Purchase of listed real estate by broker or salesman.

Breaking of
contract.

49. No broker or salesman shall induce any party to a contract for purchase and sale, or rental of real estate to break the contract for the purpose of entering into a contract with another principal. 1946, c. 85, s. 47.

Statements
to be
delivered in
purchase of
business.

50.—(1) Where a trade in a business is negotiated by a broker or his salesman, the broker shall before a binding agreement of purchase and sale is concluded, deliver to the person acquiring the business,

- (a) a profit and loss statement or statement showing the revenue and disbursements of the business during the preceding 12 months or since the acquisition of the business by the person disposing of it; and
- (b) a statement of the assets and liabilities of the business; and
- (c) a statement containing a list of all fixtures, goods, chattels, rights and other assets relating to or connected with the business which are not included in the transaction,

and every such statement shall be signed by the person disposing of the business or his agent lawfully authorized in that behalf. 1947, c. 93, s. 8, *part*.

Waiver.

(2) Where the broker delivers to the person acquiring the business a statement under oath of the person disposing of the business setting forth,

- (a) the terms and conditions under which the person disposing of the business holds possession of the premises in which the business is being carried on; and
- (b) the terms and conditions under which the person disposing of the business has sublet any part of the premises in which the business is being carried on; and
- (c) all liabilities of the business; and
- (d) that the person disposing of the business has made available such books of account of the business as he possesses for inspection by the person acquiring the business, or that the person disposing of the business has no books of account of the business, as the case may be,

the person acquiring the business may waive compliance with clauses *a* and *b* of subsection 1 by signing and delivering to the broker a statement that he has received and read the statement under oath of the person disposing of the business. 1949, c. 87, s. 2.

(3) Unless the statement mentioned in clause c of subsection 1 is delivered in accordance with subsection 1, all fixtures, goods, chattels and rights and other assets relating to or connected with the business shall be deemed to be included in the transaction. 1947, c. 93, s. 8, *part.*

What to be deemed included in transaction.

51.—(1) No broker or salesman shall request or enter into an arrangement for the payment to him of commission or other remuneration based on the difference between the price at which real estate is listed for sale and the actual sale price thereof, nor shall a broker or salesman be entitled to retain any commission or other remuneration computed upon any such basis. 1946, c. 85, s. 49 (1).

Type of commission prohibited.

(2) All commission or other remuneration payable to a broker in respect of a trade in real estate shall be upon an agreed amount or percentage of the sale price or rental, as the case may be, and where no agreement as to the amount of the commission has been entered into, the rate of commission or other basis or amount of remuneration shall be that generally prevailing in the community where the real estate is situate. 1946, c. 85, s. 49 (2); 1948, c. 77, s. 1.

Commission and remuneration, scale of.

52.—(1) Every broker and salesman shall, immediately after the execution of an agreement to list real estate for sale, exchange, lease or rent with the broker or salesman, deliver to the person who has signed the agreement a true copy thereof.

Agreement to list real estate with broker.

(2) No agreement to list real estate for sale, exchange, lease or rental with a broker or salesman shall be valid unless it is provided therein that it will expire on a date therein specified. 1946, c. 85, s. 50.

Expiry of agreement.

53. Where a broker or salesman has secured an acceptance of an offer to sell, purchase, exchange, lease or rent real estate he shall require each of the parties to sign a sufficient number of copies of the agreement and he shall retain one signed copy and shall forthwith deliver one signed copy to each of the parties. 1950, c. 68, s. 4.

Agreements to sell, purchase, etc.

OFFENCES

54. Every person who violates any of the provisions of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$1,000 for a first offence and not more than \$2,000 for a subsequent offence and in case of either a first or a subsequent offence either in default of payment of any penalty imposed or in addition to such penalty, to imprisonment for a term of not more than six months. 1946, c. 85, ss. 52, 54.

Penalties.

Proceedings
to recover
penalties.

55.—(1) No proceedings to recover the penalties provided in section 54 shall be instituted except with the written consent of the Attorney-General.

Idem.

(2) No proceedings to recover the penalties provided by section 54 shall be instituted except within two years after the offence is committed. 1946, c. 85, s. 53.

GENERAL PROVISIONS

No action
without
consent of
Attorney-
General.

56. Except with the consent of the Attorney-General, no action whatever and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy shall lie or be instituted against any person whether in his public or private capacity in respect of any act or omission in connection with the administration or carrying out of this Act or the regulations where such person is the Superintendent or his representative, or the Registrar, or where such person was proceeding under the written or verbal direction or consent of any one of them or under an order of the Attorney-General made under this Act. 1946, c. 85, s. 55.

Regulations.

57. The Lieutenant-Governor in Council may make regulations,

- (a) prescribing any class of trades in real estate or of real estate brokers or salesmen which shall be exempt from all or any of the provisions of this Act;
- (b) prescribing the amount and form of bonds to be furnished under this Act;
- (c) prescribing the classes of negotiable securities which may be accepted as collateral security for a bond;
- (d) prescribing the fees payable upon applications for registration and renewal of registration and any other fees in connection with the administration of this Act and the regulations;
- (e) prescribing the practice and procedure upon investigations under sections 23 and 25;
- (f) prescribing forms for use under this Act and the regulations;
- (g) providing for the examination of applicants for registration and renewal of registration;
- (h) prescribing the form and contents of the list of persons registered under this Act that is to be prepared by the Registrar and the date of publication thereof and governing its distribution;

- (i) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1946, c. 85, s. 56; 1947, c. 93, s. 9; 1949, c. 87, s. 3.

58. A statement as to the registration or non-registration of any person under this Act purporting to be certified by the Superintendent or Registrar, without proof of the office or signature of the person certifying, shall be receivable in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. 1946, c. 85, s. 57.

59. The Registrar shall annually prepare, publish and distribute a list of all persons registered under this Act in accordance with the regulations. 1946, c. 85, s. 58.

Certificate
as
evidence.

List of regis-
tered per-
sons to be
published.



CHAPTER 333

The Reciprocal Enforcement of Judgments Act

1.—(1) In this Act,

*Interpre-
tation.*

- (a) "judgment" means any judgment or order of a court in any civil proceedings whereby any sum of money is payable, and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the province or territory where it was made, become enforceable in the same manner as a judgment given by a court therein;
- (b) "judgment creditor" means the person by whom the judgment was obtained, and includes the executors, administrators, successors and assigns of that person;
- (c) "judgment debtor" means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the place where it was given;
- (d) "original court" in relation to any judgment means the court by which the judgment was given;
- (e) "registering court" in relation to any judgment means the court in which the judgment is registered under this Act.

(2) Subject to rules of court, any of the powers conferred by this Act on any court may be exercised by a judge of the court. R.S.O. 1937, c. 124, s. 1.

*Powers of
court, how
exercised.*

2.—(1) Where a judgment of any superior, county or district court has been obtained outside Ontario in any other province or territory of Canada to which this Act applies, the judgment creditor may apply to a judge of the Supreme Court at any time within six years after the date of the judgment to have the judgment registered in that court, and on any such application the court may, subject to this Act, order the judgment to be registered accordingly.

*Registration
of judgment.*

(2) Reasonable notice of the application shall be given to the judgment debtor in all cases in which he was not personally served with process in the original action and did not appear or defend or otherwise submit to the jurisdiction of the original court, but in all other cases the order may be made *ex parte*.

*Notice of
application
to register.*

Registration
of judgment.

(3) The judgment may be registered by filing with the registrar or clerk of the registering court an exemplification or a certified copy of the judgment, together with the order for such registration, whereupon the judgment shall be entered as a judgment of the registering court. R.S.O. 1937, c. 124, s. 2.

Conditions
of registra-
tion.

3. No judgment shall be ordered to be registered under this Act if it is shown to the registering court that,

- (a) the original court acted without jurisdiction; or
 - (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit during the proceedings to the jurisdiction of that court; or
 - (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court; or
 - (d) the judgment was obtained by fraud; or
 - (e) an appeal is pending, or the judgment debtor is entitled and intends to appeal against the judgment; or
 - (f) the judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason would not have been entertained by the registering court; or
 - (g) the judgment debtor would have a good defence if an action were brought on the original judgment.
- R.S.O. 1937, c. 124, s. 3.

Effect of
registration.

4. Where a judgment is registered under this Act,

- (a) the judgment shall, as from the date of the registration, be of the same force and effect, and subject to this Act, proceedings may be taken thereon, as if it had been a judgment originally obtained or entered up in the registering court on the date of the registration; and
- (b) the registering court shall have the same control and jurisdiction over the judgment as it has over judgments given by itself; and
- (c) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining an exemplification or certified copy thereof from the original court, and of the application for registration,

shall be recoverable in like manner as if they were sums payable under the judgment, such costs to be first taxed by the proper officer of the registering court, and his certificate thereof endorsed on the order for registration. R.S.O. 1937, c. 124, s. 4.

5. In all cases in which registration is made upon an *ex parte* order, notice thereof shall be given to the judgment debtor within one month after the registration, and the notice shall be served in the manner provided by the practice of the registering court for service of writs of process, or of notice of proceedings, and no sale under the judgment of any property of the judgment debtor shall be valid if made prior to the expiration of the period fixed by section 6 or such further period as the court may order. R.S.O. 1937, c. 124, s. 5.

Notice of registration on *ex parte* order.

6. In all cases in which registration is made upon an *ex parte* order, the registering court may on the application of the judgment debtor set aside the registration upon such terms as the court may think fit, and such application shall be made within one month after the judgment debtor has notice of the registration, and the applicant shall be entitled to have the registration set aside upon any of the grounds mentioned in section 3. R.S.O. 1937, c. 124, s. 6.

Setting aside *ex parte* order.

7. Subject to the approval of the Lieutenant-Governor in Council, the Rules Committee may make rules of court for regulating the practice and procedure, including costs, in respect of proceedings of any kind under this Act. R.S.O. 1937, c. 124, s. 7; 1941, c. 55, s. 31.

Power to make rules of court.

8. Where the Lieutenant-Governor is satisfied that reciprocal provision has been or will be made by any other province or territory of Canada for the enforcement within that province or territory of judgments obtained in any superior, county or district court of Ontario, the Lieutenant-Governor may direct that this Act shall apply to that province or territory, and thereupon this Act shall apply accordingly. R.S.O. 1937, c. 124, s. 8 (1).

Application of Act.

9. Nothing in this Act shall deprive any judgment creditor of the right to bring an action for the recovery of the amount of his judgment instead of proceeding under this Act. R.S.O. 1937, c. 124, s. 9.

Effect of Act.

(NOTE—As of August 1st, 1950, this Act applied to Alberta, British Columbia, Manitoba, New Brunswick and Saskatchewan. See O. Reg. 20/47; O. Reg. 132/50.)

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CHAPTER 334

The Reciprocal Enforcement of Maintenance Orders Act

1. In this Act,

**Interpre-
tation.**

- (a) "certified copy" in relation to an order of a court means a copy of the order certified by the proper officer of the court to be a true copy;
- (b) "court" means any authority having statutory jurisdiction to make maintenance orders;
- (c) "dependants" means such persons as a person, against whom a maintenance order is made, is liable to maintain according to the law in force in the place where the maintenance order is made;
- (d) "maintenance order" means an order, other than an order of affiliation, for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made. 1948, c. 53, s. 1.

2.—(1) Where a maintenance order has been made against any person by a court in a reciprocating state and a certified copy of the order has been transmitted by the proper officer of the reciprocating state to the Attorney-General, the Attorney-General shall send a certified copy of the order to the proper officer of a court in Ontario for registration, and on receipt thereof the order shall be registered and shall from the date of the registration be of the same force and effect, and, subject to this Act, all proceedings may be taken on the order as if it had been an order originally obtained in the court in which it is so registered, and that court shall have power to enforce the order accordingly.

**Enforcement
in Ontario
of main-
tenance
orders made
elsewhere.**

(2) The court in which an order is to be registered shall, if the court by which the order was made was a court of superior jurisdiction, be the Supreme Court and, if the court was not a court of superior jurisdiction, be such court as is determined by the Attorney-General. 1948, c. 53, s. 2.

**Court in
which orders
are to be
registered.**

3. Where a court in Ontario has made a maintenance order against any person, and it is proved to that court that the person against whom the order was made is resident in a reciprocating state, the court shall, on the request of the per-

**Trans-
mission
of main-
tenance
orders made
in Ontario.**

son in whose favour the order was made, send a certified copy of the order to the Attorney-General for transmission to the proper officer of that reciprocating state, and the Attorney-General shall transmit the certified copy accordingly. 1948, c. 53, s. 3.

Provisional
maintenance
orders
against persons
resident
outside
Ontario.

4.—(1) Where an application is made to a court in Ontario for a maintenance order against any person, and it is proved that that person is resident in a reciprocating state, the court may, in the absence of that person and without service of notice on him, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if a summons had been duly served on that person and he had failed to appear at the hearing, but in such case the order shall be provisional only, and shall have no effect unless and until confirmed by a competent court in the reciprocating state.

Depositions
and
transcripts.

(2) If the evidence of any witness who is examined on any such application is not taken in shorthand, the evidence shall be put into the form of a deposition, and the deposition shall be read over and signed by the witness and also by the judge or other person presiding at the hearing.

Trans-
mission of
order to
Attorney-
General.

(3) Where an order is made pursuant to subsection 1, the court shall send to the Attorney-General a certified copy of the order for transmission to the proper officer of the reciprocating state.

Statements
to be pre-
pared by
court.

(4) The court shall also prepare,

- (a) a statement showing the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing; and
- (b) a statement showing such information as the Court possesses for facilitating the identification of the person against whom the order is made and ascertaining his whereabouts.

Trans-
mission of
other
documents
to Attorney-
General.

(5) With the certified copy of the order the court shall also send to the Attorney-General for transmission to the proper officer of the reciprocating state,

- (a) the depositions or a certified copy of the transcript of the evidence;
- (b) the statement referred to in clause *a* of subsection 4; and
- (c) the statement referred to in clause *b* of subsection 4.

(6) The Attorney-General shall transmit the documents sent to him by the court to the proper officer of the reciprocating state. Transmission by Attorney-General.

(7) Where any such provisional order has come before a court in a reciprocating state for confirmation and the order has by that court been remitted to the court in Ontario that made the order for the purpose of taking further evidence, the last-mentioned court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application. Power to take new evidence on renvoy.

(8) If upon the hearing of such evidence it appears to the court in Ontario that the order ought not to have been made, the court may rescind the order, but in any other case the depositions or a certified copy of the transcript of the evidence if it was taken in shorthand shall be sent to the Attorney-General and dealt with in like manner as the depositions or transcript of the original evidence. Further powers on renvoy.

(9) The confirmation of an order made under this section shall not affect any power of the court by which the order was originally made to vary or rescind the order; provided that on the making of a varying or rescinding order the court shall send a certified copy thereof, together with the depositions or a certified copy of the transcript of any new evidence adduced before the court, to the Attorney-General for transmission to the proper officer of the reciprocating state in which the original order was confirmed, and that in the case of an order varying an original order the order shall not have any effect unless and until confirmed in like manner as the original order. Power of original court to vary or rescind order.

(10) The applicant shall have the same right of appeal, if any, against a refusal to make a provisional order as he would have had against a refusal to make the order had a summons been duly served on the person against whom the order is sought to be made. 1948, c. 53, s. 4. Right of appeal.

5.—(1) Where a maintenance order has been made by a court in a reciprocating state and the order is provisional only and has no effect unless and until confirmed by a court in Ontario, and a certified copy of the order, together with the depositions of witnesses and a statement of the grounds on which the order might have been opposed is received by the Attorney-General and it appears to him that the person against whom the order was made is resident in Ontario, the Attorney-General may send the documents to the proper officer of the Supreme Court if the court by which the order was made was a court of superior jurisdiction or such court as is determined by the Attorney-General, if the court by which the order was made was not a court of superior jurisdiction. Confirmation of maintenance orders made out of Ontario.

tion, and upon receipt of the documents the court shall issue a summons calling upon the person against whom the order was made to show cause why the order should not be confirmed, and cause it to be served upon such person.

Right of
defence on
application
for con-
firmation.

(2) At the hearing it shall be open to the person on whom the summons was served to raise any defence that he might have raised in the original proceedings had he been a party thereto but no other defence; and the statement from the court that made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

Power to
confirm with
or without
modifica-
tion.

(3) If at the hearing the person served with the summons does not appear or, on appearing, fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order either without modification or with such modifications as to the court after hearing the evidence may seem just.

Power to
remit to
court that
made
provisional
order.

(4) If the person against whom the summons was issued appears at the hearing and satisfies the court that for the purpose of any defence it is necessary to remit the case to the court that made the provisional order for the taking of any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

Variation or
rescission of
order that
has been
confirmed.

(5) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming court, and where on an application for rescission or variation the court is satisfied that it is necessary to remit the case to the court that made the order for the purpose of taking any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

Right of
appeal.

(6) Where an order has been so confirmed, the person bound thereby shall have the same right of appeal, if any, against the confirmation of the order as he would have had against the making of the order had the order been an order made by the court confirming the order. 1948, c. 53, s. 5.

Enforcement
of orders.

6.—(1) A court in which an order has been registered under this Act or by which an order has been confirmed under this Act, and the officers of such court, shall take all proper steps for enforcing the order.

Mode of en-
forcement.

(2) Every such order shall be enforceable in like manner as if the order were a judgment of the court in which the order is so registered or by which it is so confirmed. 1948, c. 53, s. 6.

7. The Lieutenant-Governor in Council may make rules prescribing the practice and procedure under this Act. 1948, c. 53, s. 7. Rules of practice.

8. Any document purporting to be signed by a judge or officer of a court in a reciprocating state shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the court to sign the document. 1948, c. 53, s. 8. Proof of documents signed by officer of court.

9. Depositions or transcripts from shorthand of evidence taken in a reciprocating state, for the purposes of this Act, may be received in evidence in proceedings before courts in Ontario under this Act. 1948, c. 53, s. 9. Depositions to be evidence.

10. Where the Lieutenant-Governor in Council is satisfied that reciprocal provisions have been made by any province in Canada, any part of the British Commonwealth of Nations or Empire, or any foreign state for the enforcement therein of maintenance orders made within Ontario, the Lieutenant-Governor in Council may declare it to be a reciprocating state for the purposes of this Act, and thereupon it shall become a reciprocating state within the meaning of this Act. 1948, c. 53, s. 10. Extent of Act.

(NOTE—As of August 1st, 1950, the following were reciprocating states within the meaning of this Act: Alberta, British Columbia, Manitoba, Nova Scotia, Saskatchewan, England, Isle of Man, Northern Ireland. See O. Reg. 133/50.)



CHAPTER 335

The Reformatories Act

1. In this Act, Interpre-
tation.
- (a) "county" includes district;
- (b) "inspector" means inspector appointed under *The Penal and Reform Institutions Inspection Act*; Rev. Stat.
c. 273.
- (c) "Minister" means Minister of Reform Institutions.
R.S.O. 1937, c. 382, s. 1, *amended*.
2. The Lieutenant-Governor in Council may maintain one Main-
tenance.
or more reformatories for Ontario. R.S.O. 1937, c. 382, s. 2.
3. The Lieutenant-Governor in Council may appoint for Appoint-
ment of
officers.
each reformatory a superintendent, a director of industries, a surgeon, a bursar, an accountant, a storekeeper and such other officers as may be necessary. R.S.O. 1937, c. 382, s. 3.
4. The Lieutenant-Governor in Council may make regula- Regulations.
tions for the management and discipline of reformatories and for prescribing the duties and conduct of the superintendent, director of industries, officers and employees therein, and as to the diet, clothing, maintenance, employment, classification, instruction, discipline, correction, punishment and reward of persons detained therein. R.S.O. 1937, c. 382, s. 4.
- 5.—(1) The inspector may summarily suspend any officer Power of
inspector
over
officers.
for misconduct, of which the Minister shall be at once notified, and the suspension shall continue until the pleasure of the Lieutenant-Governor is known, and the inspector may, until such pleasure has been intimated to him, cause any such officer so suspended to be removed beyond the precincts of the reformatory.
- (2) It shall be the duty of the inspector to recommend the Duty of
inspector.
removal of any officer or employee whom he deems incapable, inefficient or negligent in the execution of his duty, or whose presence in the reformatory he deems injurious to the interests thereof, and the pay of every officer so suspended shall cease during the period of the suspension. R.S.O. 1937, c. 382, s. 5.

Transfer from common jail to reformatory.

6. A male person confined in a common jail under sentence of imprisonment for an offence against any Act of the Legislature may by the direction and warrant of the inspector be transferred from the common jail to a reformatory for the unexpired portion of the term of imprisonment to which he was sentenced or committed, and he shall thereupon be imprisoned in a reformatory for the residue of the term and shall be subject to all the regulations of the reformatory. R.S.O. 1937, c. 382, s. 6.

Convicts may be sentenced to reformatory instead of common jail.

7. The court before which any male person is convicted under, or under the authority of any Act of the Legislature, of an offence punishable by imprisonment in the common jail may sentence him to imprisonment in a reformatory. R.S.O. 1937, c. 382, s. 7.

Transfer of prisoners.

8. The Minister or such other officer as may be authorized by the Lieutenant-Governor in Council may by warrant direct the removal from a reformatory back to the common jail, or from an industrial school for boys or an industrial farm to a reformatory, of any person detained therein under the authority of any Act of the Legislature. R.S.O. 1937, c. 382, s. 8.

Officer to deliver up prisoners for removal.

9. The superintendent of a reformatory, or the superintendent of an industrial school for boys, or of an industrial farm, or the keeper of a common jail, having the custody of any person ordered to be removed shall, when required so to do, deliver him up to the provincial bailiff or other officer or person who produces the warrant, together with a copy certified by the superintendent or jailer of the sentence or order of committal of such person and the date thereof as given to him on the reception of such person into his custody. R.S.O. 1937, c. 382, s. 9.

Superintendent to receive and detain prisoner.

10. The superintendent shall receive into the reformatory every person certified to him as sentenced to imprisonment therein, or transferred thereto by warrant, and shall there detain him, subject to the rules, regulations and discipline thereof, until the term of his detention is completed or until he is otherwise discharged in due course of law. R.S.O. 1937, c. 382, s. 10.

Administration of reformatory.

11. The administration of a reformatory shall be divided into,

- (a) the custodial branch, the chief executive officer of which shall be known as the "superintendent"; and
- (b) the industrial branch, the chief executive officer of which shall be known as the "director of industries". R.S.O. 1937, c. 382, s. 11.

12. The superintendent, the director of industries, the Security by officers.
bursar, the accountant, and every storekeeper and steward of
a reformatory shall give security to the satisfaction of the
Minister and for such amount as he shall direct. R.S.O.
1937, c. 382, s. 12.

13.—(1) The inspector shall not nor shall any officer or Officers not
employee in a reformatory, either in his own name or in the to be inter-
name of or in connection with or as the agent of any other ested in any
person, provide, furnish or supply any materials, goods or prison con-
provisions for the use of a reformatory, or be concerned, direct- tract.
ly or indirectly, in furnishing or supplying the same or in
any contract relating thereto.

(2) Every person who contravenes any of the provisions of Penalty.
this section shall be liable to a penalty of \$1,000. R.S.O. 1937,
c. 382, s. 13.

14. The superintendent or the director of industries of a Officers not
reformatory shall not nor shall any officer or employee buy to trade,
from or sell to any inmate in the reformatory anything what- etc., in the
ever, or take or receive to his own use or for the use of any other reformatory.
person any fee, gratuity or emolument from any inmate or
visitor or any other person, or employ any inmate in working
for him. R.S.O. 1937, c. 382, s. 14.

15.—(1) Except under the regulations, no morphia, Prohibition
cocaine or other narcotic drug, and no liquor within the mean- of liquors
ing of *The Liquor Control Act* shall on any pretence whatever and drugs.
be brought into a reformatory for the use of any officer or Rev. Stat.
employee or person in the institution or for the use of any c. 210.
inmate.

(2) Every person, other than an officer of a reformatory Penalty.
acting under the regulations, who gives any morphia, cocaine
or other narcotic drug or intoxicating liquor, and every officer,
employee or other person who gives or conveys tobacco in any
form to any inmate shall be guilty of an offence and upon
summary conviction shall be liable to a penalty of \$40.
R.S.O. 1937, c. 382, s. 15.

16. Every reformatory shall be furnished with all requisite Labour.
means for carrying on beneficial labour by the inmates in
shops and the various forms of labour, having for their base,
clay, sand, gravel, stone, lime, agriculture, horticulture and
dairying in all their various branches. R.S.O. 1937, c. 382,
s. 16.

17. A record of the conduct of the inmates of a reformatory Record of
shall be kept. R.S.O. 1937, c. 382, s. 17. to be kept.

Sentences.

18.—(1) Every person sentenced directly to a reformatory shall be sentenced to imprisonment therein for a period of not less than three months and for an indeterminate period thereafter of not more than two years less one day.

Consideration by Board of Parole.

(2) The Board of Parole before paroling any inmate of a reformatory shall take into consideration his history for the purpose of determining whether he should be paroled. R.S.O. 1937, c. 382, s. 18.

Employment beyond the precincts.

19.—(1) The Lieutenant-Governor in Council may authorize, direct or sanction the employment of any inmate upon any specific work or duty beyond the limits of the reformatory.

Conditions of employment.

(2) Every such inmate during such employment shall be subject to all the provisions of this Act and the regulations and discipline of the reformatory, and to such other regulations of the superintendent as may be prescribed by the inspector. R.S.O. 1937, c. 382, s. 19.

Inmates not to be discharged on a Sunday.

20. When the term of imprisonment of any inmate expires on a Sunday he shall be discharged on the previous Saturday unless he desires to remain until the following Monday. R.S.O. 1937, c. 382, s. 20.

Detention of diseased inmates.

21. No inmate shall be discharged from a reformatory at the termination of his sentence if then labouring under any contagious or infectious disease or under any acute or dangerous illness, but he shall be permitted to remain in the reformatory until he recovers from such disease or illness, and any inmate so remaining shall be under the same discipline and control as if his sentence were unexpired. R.S.O. 1937, c. 382, s. 21.

Property belonging to reformatory.

22. A reformatory shall be deemed to include all the land procured for such institution, and all buildings and machinery erected or used thereon and all carriages, wagons, sleighs and other vehicles for land carriage being the property of such institution or employed in its service, and the superintendent shall have the custody and care thereof. R.S.O. 1937, c. 382, s. 22.

Procuring land at reformatory for farm purposes.

23. The Lieutenant-Governor in Council may cause to be procured and provided, adjacent to or surrounding any reformatory, a tract of land fit for agricultural or mechanical purposes, not exceeding 200 acres, and may cause the same to be securely enclosed. R.S.O. 1937, c. 382, s. 23.

Contracts, how to be made.

24. All dealings and transactions on account of any reformatory, and all contracts for goods, wares or merchandise

necessary for maintaining and carrying it on, or for the sale of goods prepared or manufactured therein, or for the hire, labour or employment of any of the inmates either within or without the limits thereof, shall be entered into and carried out by the inspector on behalf of His Majesty. R.S.O. 1937, c. 382, s. 24.

25.—(1) For more efficiently carrying on the industries at any reformatory the Minister may cause an account to be opened in any Province of Ontario Savings Office or in any branch in Ontario of a chartered bank of Canada in the name of the "Reformatory Industries", with a credit from year to year to cover what may be required for the year for the purposes of the business in connection with such industries, not exceeding the estimated sales of the year as reported to the Assembly by the Minister. R.S.O. 1937, c. 382, s. 25.

Account with a bank for the reformatory industries.

(2) All money received by the reformatory for and on account of goods sold of whatever kind shall be deposited from day to day to the credit of the account. R.S.O. 1937, c. 382, s. 27.

Deposit of money received for goods sold.

(3) All cheques drawn upon the account shall be signed by the director of industries and the bursar of the reformatory and countersigned by the inspector and the Minister. R.S.O. 1937, c. 382, ss. 26, 28.

Cheques, how signed and countersigned.

(4) Every cheque drawn upon the account shall, when presented to the several officers required to sign and countersign it for signature, have attached thereto for the information of such officers the original bill, or a duplicate or certified copy of the original bill, for payment of which the cheque is issued, the bill having been theretofore certified by the accountant of the reformatory to be correct. R.S.O. 1937, c. 382, s. 29.

Bill to be attached to cheque when presented for signature.

(5) At the end of each fiscal year there shall be paid over to the Treasurer of Ontario the balance of the money standing at the credit of the account. R.S.O. 1937, c. 382, s. 30.

Payment of balance to Provincial Treasurer.

26. The provincial Auditor shall audit the industrial accounts of every reformatory at least every three months. R.S.O. 1937, c. 382, s. 31.

Audit.

CHAPTER 336

The Registry Act

1. In this Act,

Interpretation.

- (a) "certificate of amalgamation of loan corporations" includes a copy certified under the hand of the Registrar of Loan and Trust Corporations of the certificate of assent and declaration referred to in section 100 of *The Loan and Trust Corporations Act* and of any document mentioned in such certificate and a certificate issued for the purpose of registration under any Act of the Legislature authorizing or ratifying an agreement for the purchase and sale of the assets, or for the amalgamation of loan corporations; Rev. Stat., c. 214.
- (b) "county" includes a city, a provisional judicial district, and any part of a county, district or city set apart for judicial or registration purposes;
- (c) "Inspector" means Inspector of Legal Offices appointed under *The Judicature Act*; Rev. Stat. c. 190.
- (d) "instrument" includes every Crown grant, and Order in Council of Canada and of Ontario, every deed, conveyance, mortgage, assignment of mortgage, certificate of discharge of mortgage, assurance, lease, bond, release, discharge, power of attorney, under which any such instrument is executed, every bond or agreement for the sale or purchase of land, will, probate of will, grant of administration, caution under *The Devolution of Estates Act* or renewal thereof, municipal by-law, certificate of proceedings in any court, judgment or order of foreclosure and every other certificate of judgment or order of any court affecting any interest in or title to land, and certificate of amalgamation of loan corporations, every certificate of payment of taxes granted under the corporate seal of the county, city or town by the treasurer, every sheriff's and treasurer's deed of land sold by virtue of his office, every contract in writing, every order and proceeding in mental incompetency, bankruptcy and insolvency, every plan of a survey or subdivision of land, and every other instrument Rev. Stat. c. 103.

whereby land may be transferred, disposed of, charged, encumbered or affected in any wise, affecting land in Ontario;

- (e) "land" includes lands, tenements, hereditaments and appurtenances and any estate or interest therein;
- (f) "power of attorney" includes a revocation or alteration thereof and an appointment of a substitute thereunder;
- (g) "will" includes codicil, probate of will and exemplification, and notarial or prothonotarial copy of a will, or of a probate of a will, and letters of administration with the will annexed, and a devise whereby land is disposed of or affected. R.S.O. 1937, c. 170, s. 1.

Application
of
Rev. Stat.
c. 197.

2. Subject to *The Land Titles Act*, after a certificate of the first registration of the owner under that Act has been registered as prescribed by that Act, this Act shall cease to apply to the land mentioned in the certificate. R.S.O. 1937, c. 170, s. 2.

Land in
districts
patented
since 31st
December,
1887.

3.—(1) No instrument affecting land in a provisional judicial district granted by the Government of Ontario by letters patent or by order of the Lieutenant-Governor in Council after the 31st December, 1887, other than lands mentioned in subsection 2 of section 160 of *The Land Titles Act*, shall be registered under this Act.

Saving as to
lands hereto-
fore regis-
tered.

(2) The registration in the registry office of any such district of any lands so patented or granted before the 1st day of September, 1910, is declared to be valid and effectual and instruments affecting such lands, patents for which have been already registered, may continue to be registered under this Act.

Claim to
unpatented
lands.

(3) A person claiming an interest in unpatented lands in any such district may lodge with the local master of titles a caution under section 83 of *The Land Titles Act* subject to the provisions of that section. R.S.O. 1937, c. 170, s. 3.

Change of
boundaries
of ridings
not to affect
registry
divisions.

4.—(1) Subject to the provisions of this Act and except where otherwise expressly provided in any general or special Act or Order in Council, the registry divisions as they existed on the 14th day of April, 1925, shall be the registry divisions of the Province of Ontario for the purposes of this Act and no alterations in the boundaries of any riding, electoral district or municipality shall alter or affect the boundaries of any registry division.

(2) Where a new county or district is formed it shall constitute a registry division. New divisions. R.S.O. 1937, c. 170, s. 4.

5.—(1) Where a registry division includes the whole or part of the county or district town the registry office shall be situate therein, and in other cases shall be situate at such place as the Lieutenant-Governor in Council shall direct. Situation of office.

(2) Where a registry office is, in the opinion of the Lieutenant-Governor in Council, inconveniently or unsafely situated he may direct that a new registry office be erected on a new site to be approved by him. Idem. R.S.O. 1937, c. 170, s. 5.

6.—(1) For the safe-keeping and protection of all books, memorials, duplicates and other instruments of whatever description and plans belonging to the office of registrar, the council of every county where at any time there are no safe and proper fire-proof offices and vaults provided by the council, or where any registry office is established, or where under section 5 the Lieutenant-Governor in Council has directed a change of site, shall provide, furnish, maintain and keep in good repair a safe and fire-proof registry office, fire-proof vaulted, upon a plan and on a site to be approved by the Lieutenant-Governor in Council, and the council shall keep the registry office furnished with fuel and furniture and in good repair and properly heated, lighted, cleaned and ventilated. County councils to provide fire-proof offices and vaults.

(2) A town separated from a county for municipal purposes, and a city for which there is no separate registry office, shall bear such equitable proportion of the expense incurred under subsection 1 as the Inspector directs. Expense:

(3) Except where otherwise provided in this Act, the Inspector may in writing authorize the registrar under the direction of an architect named by the Inspector to expend out of the proportion of the fees to which the county or city may then or thereafter be entitled under sections 107 and 111 so much as may be deemed by the Inspector to be necessary in providing adequate fire-proof or metal fittings for the vault of the registry office or for the proper heating and ventilation of the vault, and the amount so expended, including the architect's charge, shall be certified by the Inspector, and his certificate or a duplicate thereof shall be transmitted by the registrar to the treasurer of the county or city, and shall be a discharge to the registrar of the amount so certified, as against the proportion of the fees then payable or to become thereafter payable by him. Registrar to provide for vaults, etc., when directed by Inspector. R.S.O. 1937, c. 170, s. 6 (1 - 3).

(4) The corporation of any county or city charged with the duty of providing books for use in a registry office shall when so required by the Inspector provide typewriters for use in Municipality to provide typewriters.

copying instruments in the registry books, telephones, directories and such other articles as the Inspector may deem necessary for the purpose of the office. R.S.O. 1937, c. 170, s. 6 (4); 1939, c. 40, s. 1.

REGISTRARS

Registrars,
how ap-
pointed, etc.

7. There shall be a registrar for every registry division who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure. R.S.O. 1937, c. 170, s. 7.

Registrar's
seal.

8. Every registrar shall have a seal of office to be approved of by the Inspector. R.S.O. 1937, c. 170, s. 8.

Security.

9.—(1) The Lieutenant-Governor in Council may fix and determine the amount of the security to be furnished by each registrar.

amount of.

(2) The amount of such security shall, except in the case of a registrar in a provisional judicial district, be not less than \$4,000 and not more than \$10,000.

Additional
security may
be directed.

(3) The Lieutenant-Governor in Council, upon the application of any county or city interested, or without such application, may require any registrar to furnish additional security in such form and for such an amount as the Lieutenant-Governor in Council determines to be sufficient to secure the due payment of any money payable by the registrar to the county or city. R.S.O. 1937, c. 170, s. 9.

Liability of
registrars
and their
sureties.

10. The registrar and his sureties shall be jointly and severally liable upon and to the extent of the security furnished to any aggrieved person to indemnify him against any damage or loss sustained by him, by or through the neglect or misconduct of the registrar or his deputy in the performance of the duties of his office, but this provision shall not exempt the registrar from any further responsibility to a person sustaining such damage or loss. R.S.O. 1937, c. 170, s. 10.

Registrar's
oath of
office.

11. Every registrar, before he enters upon the duties of his office, shall take and subscribe the oath (Form 1) which shall be transmitted by him to the Provincial Secretary. R.S.O. 1937, c. 170, s. 11.

Appoint-
ment of
deputies.

12.—(1) The registrar may by writing under his hand and seal of office appoint a deputy or deputies who may perform all the duties required under this Act in the same manner and to the like effect as if done by the registrar,

(2) In case of the death, resignation, removal from or forfeiture of office of the registrar, the deputy registrar, or if more than one, the senior deputy registrar shall be the registrar *pro tempore* and shall do and perform all and every act, matter and thing necessary for the due execution of the office, until a new appointment of registrar is made, and if there is no deputy registrar the Crown attorney shall be the registrar *pro tempore* until another person is appointed, and the Crown attorney on becoming registrar may appoint a deputy registrar.

Power of deputy in case of death or removal of registrar.

(3) The registrar *pro tempore* shall be answerable for the execution of the office during such interval, and any security given by the registrar shall be and stand as security for the due and faithful performance of the duties of his office by the registrar *pro tempore*. R.S.O. 1937, c. 170, s. 12.

Temporary officer to be responsible.

13. Every deputy registrar, before he enters on the duties of his office, shall take and subscribe the oath appointed to be taken by the registrar, or an oath to the like effect, which oath he shall forthwith transmit to the Provincial Secretary. R.S.O. 1937, c. 170, s. 13.

Deputy's oath of office.

14.—(1) No registrar or deputy registrar or clerk in his office shall, directly or indirectly, act as the agent of any corporation or person investing money or taking security on land within his county, nor advise, for fee or other reward, or otherwise, upon titles to land, or practise as a conveyancer, or act as an agent for the sale of land, within his county, nor shall he carry on or transact within the registry office any other business or occupation whatever.

Restrictions on actions of registrars, deputies, etc.

(2) No registrar, deputy registrar or clerk in a registry office shall personally or as a member of a firm carry on a loaning business or be in any way connected with a firm which transacts business with the office of the registrar.

Idem.

(3) No registrar, deputy registrar or clerk in a registry office shall practise as a barrister, solicitor, physician or surgeon. R.S.O. 1937, c. 170, s. 14.

Restriction on practising a profession.

DUTIES OF REGISTRARS

15. The work of the office shall be conducted and carried on under the direction and immediate supervision of the registrar. R.S.O. 1937, c. 170, s. 15.

Work in registry office to be supervised by registrar.

16.—(1) Except as provided in this section, the registrar or his deputy shall attend at his office from the hour of ten o'clock in the forenoon until four o'clock in the afternoon,

Hours of attendance at office;

every day in the year, holidays excepted, and no instrument shall be registered on any holiday, nor shall any instrument be received for registration except within those hours.

of registrars
for certain
divisions.

(2) The registrars for the City of Toronto, the registry division of East and West York, the County of Wentworth, the County of Carleton, the City of Ottawa, the City of London, the County of Waterloo, the County of Leeds, the County of Frontenac and the City of Kingston and in the provisional judicial districts, or their respective deputies, shall attend at their offices on Saturdays, from the hour of ten o'clock in the forenoon until one o'clock in the afternoon and no longer, and no instrument shall be received for registration on that day except within those hours.

Office hours
of other
registrars on
Saturday
during long
vacation.

(3) From the 1st day of July to the 31st day of August, both days inclusive, none of the other registrars shall, after one o'clock in the afternoon on Saturdays, register any instrument, nor shall any instrument be received for registration, nor shall it be obligatory to attend at his office after that hour.

Closing
registry
offices on
Saturday
afternoon.

(4) The council of any county may by by-law authorize the closing on Saturday of any registry office within the county at one o'clock in the afternoon, and while the by-law is in force, no instrument shall be received on Saturday for registration in the registry office after that hour, and the registrar shall post up a copy of the by-law in a conspicuous place in the registry office. R.S.O. 1937, c. 170, s. 16.

Registrars to
make
searches and
abstracts,
exhibit
originals,
etc.

17.—(1) The registrar shall, when required and upon being tendered his proper fees, make searches and furnish abstracts of or concerning all instruments or memorials registered which mention any lot of land as described in the patent thereof from the Crown, or any lot described by number or letter on any registered plan, subsequent to the registration of the plan, or any part of a lot where the part is clearly described and can be identified in connection with the chain of title, or has been ascertained by actual survey, and of and concerning all instruments registered, as may be requested of him in writing, if a writing is demanded by him, but unless otherwise instructed he shall omit from the abstract all instruments ruled off pursuant to section 72 and in that case the form of the certificate in subsection 2 shall be varied accordingly, and he shall exhibit any original registered instrument, and also the books of the office relating thereto when a personal inspection thereof is desired, and shall give extracts certified under his hand of and concerning the parties to any of such instruments, or of the witnesses thereto or any other particulars which may be required, but no registrar

shall allow any such book or instrument to be taken out of his possession or custody.

(2) Every abstract furnished by a registrar shall be commenced and certified to in the words following: Certificate of registrar on abstracts.

Registry Office, County of....., Abstract of Title

I certify that the above (*or the following*) are correct extracts from the only instruments registered in this office which mention or refer to (*describe property sufficiently for identification*). This abstract does not purport to give entries from the general register or bankruptcy books.

Dated at..... this..... day of....., 19....., at the hour of.....

Registrar or Deputy-Registrar. (L.S.)

(3) The fees for every abstract shall be stated on the face thereof and shall show the items making up the amount of the fees. Fees to be stated on abstract.

(4) The registrar, when requested in writing to do so by the person requiring an abstract of title, shall omit from it mortgages and assignments thereof in respect of which instruments purporting to be discharges are entered in the abstract index, and mechanics' liens in respect of which an action has not been brought and a certificate thereof registered as required by *The Mechanics' Lien Act*, or any other class of instrument mentioned in the request, and in that case the certificate of the registrar shall be varied accordingly. R.S.O. 1937, c. 170, s. 17. If requested discharged mortgages and expired liens to be omitted from abstract.
Rev. Stat. c. 227.

18. A registrar shall not permit any person other than his officers or employees to use ink or other indelible fluid or substance for the purpose of making copies of or extracts from an instrument, document, book, paper or record in the registry office, or of any matter therein contained. R.S.O. 1937, c. 170, s. 18. Persons searching not to use ink for copying.

19. A registrar shall not be liable in respect of entries of instruments or errors or mistakes in the entries of instruments or omissions by any of his predecessors in office, nor for any defect or inaccuracy in any abstract or certificate arising from such error, mistake or omission, unless he had become aware or had knowledge of such error, mistake or omission, or unless such abstract or certificate is defective or inaccurate to the knowledge of the registrar or his deputy or the clerk by whom it is made or signed. R.S.O. 1937, c. 170, s. 19. Non-liability for certain errors or omissions.

20.—(1) On request of any person the registrar shall furnish a certified copy, under his hand and seal of office, of any instrument or memorial deposited, registered, or filed and kept in his office. Registrar to furnish certified copies.

Not bound to produce any papers, except on order of a judge.

(2) No registrar or deputy registrar shall be required to produce any instrument or document in his custody as registrar or deputy registrar, unless ordered by a judge of one of the courts of Ontario, which order shall be produced to the officer issuing the subpoena requiring such production, and shall be noted by him in the margin of the subpoena. R.S.O. 1937, c. 170, s. 20.

BOOKS OF OFFICE

Treasurer to provide proper books.

21.—(1) The treasurer of every county and the treasurer of every city for which there is a separate registry office shall provide a fit and proper registry book for each township, city, town, or village, and for each town plot laid out by the Crown, and all index and other books required for the business of the registry office. R.S.O. 1937, c. 170, s. 21 (1).

Pattern.

(2) All registry and abstract index books shall be as nearly as may be of the like size and description as those heretofore furnished, and shall continue to be of one uniform size as nearly as practicable, and with the approval of the Inspector such registry books may be in loose-leaf form with locking attachment. 1941, c. 50, s. 1.

Separate for each local municipality.

(3) From the time the books are so provided and received at the registry office the registrar shall keep and cause to be used for that purpose a separate registry book for and of each township, city, town and village and for each town plot laid out by the Crown within his registry division.

General registry book.

(4) Every registrar shall keep a general registry book herein called the "general register" for the whole of the registry division, which shall be used for the purposes hereinafter set forth and every registrar shall keep an alphabetical index of the names of all the parties mentioned by name in every instrument but in the case of wills, probates and letters of administration with the will annexed it shall be sufficient to enter only the name of the testator and executors.

By-law book to be kept to record money by-laws.

(5) The registrar shall also keep a by-law book in which shall be entered the registration number of every money by-law, the number of the by-law and its title, and name of the municipality, the amount of the debt, the rate of interest and the period for which the debentures are to run, and where the rates are to be levied on part only of the rateable property in the municipality, that fact shall be stated.

No entry in general register necessary.

(6) No entry in respect of the by-law shall be made in the general register.

Index of wills omitted from general register.

(7) Where, before the 7th day of April, 1896, wills had been recorded in the separate books of a registry division but not in the general register when they ought to have been

recorded therein and in other cases where in his opinion public convenience so requires, the Inspector may, by order in writing, direct that an alphabetical index shall be prepared and kept of the names of all persons mentioned by name in such wills and designating the book or books and the pages thereof in which such wills are recorded, and the treasurer shall, for such index and the preparation thereof, pay to the registrar such sum as the Inspector may order in writing.

(8) The general register shall be used for recording wills, probates, grants of administration, general appointment of new trustees, certificates of judgment, or orders of any court removing or appointing executors, administrators, guardians or trustees, and powers of attorney in which there is a general devise or power affecting land without local description, and claims for lien under *The Mechanics' Lien Act* against land which constitutes the line of railway or right-of-way of a railway company, general certificates of payment of succession duties under subsection 7 of section 57, and also certificates of amalgamation of loan corporations, and where a mortgage of railway of other lands was registered prior to the 1st day of April, 1899 in the general register of any registry division, a discharge of such mortgage or a reconveyance of the mortgaged premises may be registered therein.

General register.
what to be used for.

Rev. Stat.
c. 227.

(9) When a registrar requires a new registry book, or any other book for the use of his office, the book shall, on his application therefor in writing, be furnished to him by the treasurer, and all books so furnished shall be paid for by the treasurer.

New books.

(10) All books so furnished, used and kept shall be the property of the Crown.

Property.

(11) The Inspector, when for the despatch of business he finds it necessary, may, by order in writing, permit more than one registry book to be in use at the same time for the same municipality. R.S.O. 1937, c. 170, s. 21 (3 - 11).

Extra books.

22. If the treasurer refuses or neglects to furnish any such book within thirty days after application therefor the registrar may provide the book and recover the cost thereof from the corporation of the county or city in default. R.S.O. 1937, c. 170, s. 22.

If the treasurer neglects to provide books.

23. The registrar shall certify (Form 2) respecting each register or other book so furnished or provided. R.S.O. 1937, c. 170, s. 23.

Registrar to certify books.

24.—(1) Where a new registry division is established consisting wholly or in part of a territory which theretofore formed part of an existing registry division, the registrar of the regis-

Where new division formed, certain books, etc. to be transferred.

try division from which such territory is detached shall deliver to the registrar of the registry division of which it becomes part or in which it is comprised,

- (a) the registry books and all other books and indexes which have been kept according to law exclusively for such territory or any part of it;
- (b) the original memorials of all instruments and documents relating exclusively to land within such territory, including deposits filed in pursuance of *The Custody of Documents Act*;
- (c) all maps of municipalities within such territory deposited according to law in his office, and all registered plans relating exclusively to land within such territory;
- (d) an abstract index book of all instruments relating to land within such territory registered before separate registry books were kept for each township or place;
- (e) a proper registry book containing full and complete copies of all memorials and other registered instruments, including deposits filed in pursuance of *The Custody of Documents Act*, affecting such land which are not under the provisions of clause *b* required to be delivered, or which, though relating exclusively to land within such territory, are entered in a registry book not required to be delivered as provided by clause *a*;
- (f) another proper registry book containing copies of all wills and other instruments registered in a general register in which the names of any of the parties to them have been entered in the alphabetical index kept for any part of the territory;
- (g) a copy of the alphabetical index attached to any such general register;
- (h) copies of all plans which, though not affecting exclusively such territory, include within their boundaries any portion of it.

Rev. Stat.
c. 85.

Copies to be
entered ac-
cording to
original
order.

(2) The copies mentioned in clause *e* of subsection 1 shall be entered in the registry book in the same order in which they are entered in the original registry book, and the registrar shall write on the margin of the first-mentioned book opposite to the entry of each memorial or instrument the number of it and the time at which the same was registered as appears by the endorsement thereon.

(3) Each registry book to be delivered shall have or be accompanied by an alphabetical index of names. Books to be indexed.

(4) The registrar shall carefully compare all entries made in the registry books which he is required to deliver with the original entries in the registry books in his office, and shall write and sign a certificate that he has done so in each book before delivering it. Comparing and certifying books.

(5) The registrar who receives any original memorial or instrument under the provisions of this section which is not copied in any registry book delivered to him shall cause the same to be copied in a proper registry book. Entering instruments not copied.

(6) A registrar who fails to perform the duties imposed on him by subsections 1 to 5 within six months after the territory is detached from his registry division, or within any extended period allowed by the Inspector under subsection 7, shall be liable to a penalty of not more than \$400. Penalty for neglect to deliver books, etc.

(7) The Inspector may extend such period of six months for a further period not exceeding six months. R.S.O. 1937, c. 170, s. 24. Extension.

25. Where a registrar is removed from or resigns his office he shall forthwith deliver up all books, plans, instruments, memorials and indexes in his possession as registrar to the person who is appointed registrar in his stead, or to any other person who may be appointed in writing by the Attorney-General to receive them, and if the registrar refuses to do so the Attorney-General may direct the sheriff of the county to seize and take immediate possession of them wheresoever found, and the registrar so offending shall be liable to a penalty of not more than \$2,000, and, in the discretion of the court, may also be imprisoned for a term of not more than one year. R.S.O. 1937, c. 170, s. 25. Registrar removed or resigning to deliver up books to new registrar, etc.

26.—(1) Where any book, from age or use, is becoming obliterated or unfit for future use the Inspector shall, by direction in writing under his hand, order that it be re-copied in a book of the same description as that prescribed by section 21, so far as the same can be deciphered by examination thereof and of the original instruments or memorials relating thereto. When any book becomes unfit for further use, copy to be made.

(2) Such book, having the order of the Inspector inserted at the beginning, and having the affidavit or declaration of the registrar or his deputy at the end to the effect that it is a true copy of the original book, shall be accepted and received as the original, and as *prima facie* evidence that the copy is a true copy, but the original book shall nevertheless be carefully preserved. Original to be preserved.

Repair of
books, maps,
etc.

(3) The Inspector may order any book which is out of repair to be repaired in such manner as he thinks necessary, and may order plans and maps deposited in any registry office to be copied, mounted or bound, and to be preserved in such manner as he thinks necessary.

Inspector
may order
duplicate or
new abstract
indexes,

(4) The Inspector may order as many counterparts or copies of any abstract index book to be made as he deems necessary for the public convenience, and may order new abstract indexes to be made when the indexes in use have become complicated or otherwise inconvenient.

and new sur-
veys and
plans.

(5) When authorized so to do by the Lieutenant-Governor in Council the Inspector may order new surveys and plans to be made of any locality or territory in a registry division which, in his judgment, have become necessary, whether the locality or territory has or has not been subdivided according to a registered plan.

Recopying
abstract
index.

(6) When an abstract index is to be recopied, it shall not be necessary to include in the recopying any of the instruments which have been ruled off as provided by section 72 or any portion of the abstract index containing a record of the instruments registered 40 years or more before the date of the commencement of such recopying, but it shall be the duty of the registrar to carefully preserve such abstract index and it shall be available for inspection as in the case of current indexes. R.S.O. 1937, c. 170, s. 26.

Payment for
services
under ss. 24
and 26.

27. Subject to section 28 the fees and expenses for services rendered under sections 24 and 26 shall be paid by the treasurer of the county, and a town separated from the county for municipal purposes and a city for which there is not a separate registry office shall pay to the county such equitable proportion thereof as the Inspector shall direct. R.S.O. 1937, c. 170, s. 27.

Fees for pre-
paring plans,
etc., for
municipalities.

28. The Inspector may order the expenses of new surveys and plans, and the registration thereof under section 26, to be paid by the treasurer of any local municipality concerned, or in part by the county treasurer and in part by the treasurer of the local municipality, and the local municipality may, subject to the order of the Inspector, cause the expenses or part thereof to be levied by assessment on all rateable property comprised in the portion of the municipality affected by the plan or survey. R.S.O. 1937, c. 170, s. 28.

Abstract
index of lots.

29.—(1) The registrar, in a book (Form 3) called the "Abstract Index", shall enter under a separate and distinct head each separate lot or part of a lot of land as originally

patented by the Crown, or as defined on any registered plan of the subdivision of such land into smaller sections or lots.

(2) Every instrument which mentions such parcel or lot ^{Entries.} of land or other subdivision, the names of every party to the instrument and the nature of it, the registration number for each municipality in which land mentioned therein is situate, and the day, month and year of its registration, the consideration or mortgage money mentioned in it, and such a description of the land therein mentioned as will readily identify its location, shall, in addition to all entries required by law, be entered by the registrar in the abstract index in regular order under the proper heading of each separate parcel or lot of land. R.S.O. 1937, c. 170, s. 29.

30. Every registrar shall also keep, for each township, city, town, and village, and for each town plot laid out by the Crown an alphabetical index of names (Form 4), exhibiting in ^{Alphabetical index of names for each locality.} columns the number of each instrument, the names of the grantors, and the names of the grantees. R.S.O. 1937, c. 170, s. 30.

INSTRUMENTS THAT MAY BE REGISTERED

31. Except as otherwise herein provided, and subject to ^{Instruments that may be registered.} section 33, all instruments mentioned in section 1 may be registered. R.S.O. 1937, c. 170, s. 31.

32. After the 1st day of July, 1951, no instrument with ^{Size of instruments.} dimensions greater than eight and one-half inches by fourteen inches shall be registered. 1950, c. 69, s. 1.

33.—(1) Except as provided by subsection 8 or section 21, ^{Instruments affecting lands without local description.} no instrument which affects land without local description shall be registered unless the instrument, when offered for registration, in addition to the ordinary proofs for registration, has attached to it a statutory declaration by one of the parties to the instrument, or by his attorney under registered power of attorney, or by the heirs, executors or administrators of the party, to the effect that the instrument affects land within the registry division, and giving a local or general description of the land sufficient to enable it to be traced or ascertained by a surveyor, and thereupon the instrument shall be recorded in the proper separate registry book and particulars thereof entered in the abstract index and in all other books in the same manner as if the instrument itself had contained the local description of the land.

(2) Where an instrument affecting land without local ^{Registration of instruments in general register and separate registry books.} description is, under this section, recorded in the separate registry books it may be further recorded and entered therein so as to affect other land by local description, by the registration of a

statutory declaration (Form 15) to be made by any of the persons mentioned in this section.

Registration of statutory declaration as to lands affected.

(3) Where an instrument has been or is recorded in the general register particulars thereof may be recorded in the separate registry books by the registration of a like statutory declaration.

Manner of recording.

(4) The last-mentioned statutory declaration shall be recorded in the proper registry books, and particulars thereof entered in the abstract index and in all other books in the same manner as upon the registration of an instrument which affects land by local description.

Who may make declaration for a corporation.

(5) Any statutory declaration mentioned in this section may, where one of the parties to an instrument is a corporation, be made by an officer thereof, or where one of the parties entitled to make a declaration is absent from Ontario it may be made by his solicitor.

Interpretation.

(6) In this section, "local description" means a local or general description of land sufficient to enable the same to be traced or ascertained by a surveyor. R.S.O. 1937, c. 170, s. 32 (1 - 6).

What may be registered before grant from Crown.

(7) Except mortgages, encumbrances or liens, made or given by the original nominee of the Crown, or by any person through whom a person, obtaining a grant of land from the Crown, derived title, no instrument affecting land that has not been granted by the Crown shall be tendered for registration or registered. R.S.O. 1937, c. 170, s. 32 (7); 1939, c. 40, s. 2.

Proof for registration.

34.—(1) An instrument other than a will, grant or lease from the Crown, Order in Council, by-law or other instrument under the seal of any corporation, certificate of judicial proceedings or an instrument which may be registered by deposit of a certified copy shall not be registered unless accompanied by an affidavit (Form 5) of a subscribing witness, not being a party to the instrument, as to the execution of the instrument by each party who appears to have executed it, setting forth the name, place of residence, addition, occupation or calling of the witness, and deposing to,

- (a) the execution of the original and of the duplicate, if any, by the party to whose execution thereof he is a witness;
- (b) the place of execution by the party;
- (c) that he knows that the person who executed the instrument in his presence is the party to the instrument as to whose execution thereof he deposes;

(d) that he is a subscribing witness to the instrument.
R.S.O. 1937, c. 170, s. 33 (1); 1947, c. 95, s. 1.

(2) The affidavit shall be made on or securely attached to Idem.
the instrument.

(3) An instrument may be registered notwithstanding that the given name or names of the subscribing witness making the affidavit is or are only set forth therein by initials or abbreviation and not in full. Name of witness need not be set forth in full in affidavit.

(4) The proof of the execution of an instrument made before the 1st day of September, 1910, which was sufficient proof for registration before that day, shall be sufficient proof for registration under this Act. R.S.O. 1937, c. 170, s. 33 (2-4). Saving.

35. An instrument, not purporting to convey the land therein mentioned, but which in its nature is, or purports to be, given as a security for the payment of a debt or liability incurred by the person executing it in respect of a purchase or delivery of any goods or in respect of an advance or loan of money, shall not be registered unless the affidavit of execution (Form 6) states that the instrument was read over and explained to the person executing it, and that he appeared perfectly to understand it, and was informed that it might be registered as an encumbrance on his land. R.S.O. 1937, c. 170, s. 34. Affidavit of execution in case of instruments given in respect of purchase or delivery of goods.

(NOTE.—See section 71 as to discharge of such claims.)

36.—(1) Every affidavit made under the authority of this Act shall be made before the registrar or deputy registrar of the registry division in which the land lies, or before some person authorized by law to take affidavits in or for use in Ontario. Before whom to be sworn in Ontario.

(2) Where an affidavit of execution is made out of Ontario before a person who has not an official seal it shall be sufficient for him so to certify. R.S.O. 1937, c. 170, s. 35. Where affidavit made out of Ontario.

37. The proof may be by affirmation or declaration when the person before whom the proof is made certifies that, by the law of the country where the proof is made, an affirmation or declaration may be substituted for an affidavit. R.S.O. 1937, c. 170, s. 36. Affirmation or declaration in certain cases.

38. No person authorized to take affidavits shall take an affidavit of the execution of an instrument to which he is a party; nor shall such an affidavit be taken from a witness unless the witness has subscribed his name in his own handwriting as such witness. R.S.O. 1937, c. 170, s. 37. Parties not to take affidavits. Witnesses to sign.

Witnesses
compellable
to make
affidavit.

39. Every subscribing witness shall be compellable, by order of a judge of the Supreme Court or of a county or district court, to make affidavit or proof of the execution of an instrument for the purpose of registration, and to do all other acts necessary for that purpose, upon being paid or tendered his reasonable expenses therefor. R.S.O. 1937, c. 170, s. 38.

Witnesses
mentally ill,
mentally
defective,
absent, etc.

40. Where the witnesses to an instrument are dead or are out of Ontario, or have become mentally ill, mentally defective or of unsound mind or understanding, and whether so found by inquisition or not, or where an instrument not by law requiring an attesting or subscribing witness thereto has been executed without an attesting or subscribing witness, or if it is proved that the place of abode or residence of the first-mentioned witnesses is unknown, any person who is or claims to be interested in the registration of the instrument may make proof before any judge of any county or district court, of the execution of the instrument, and upon a certificate (Form 7) being endorsed on the instrument and signed by the judge, the registrar shall register the instrument and certificate. R.S.O. 1937, c. 170, s. 39.

Seal of court
or seal of
corporation
with signa-
ture of
officer to
suffice for
registration.

41. The seal of a court of record affixed to an instrument of itself, and the seal of a corporation affixed to an instrument with the signature purporting to be the signature of the presiding officer, vice-president, manager, director, secretary, treasurer, attorney or other authorized person shall be sufficient evidence, for the purpose of registration, of the due execution of the instrument by the judge, or the officer of the court signing it, or by the corporation. R.S.O. 1937, c. 170, s. 40; 1939, c. 40, s. 3.

Judgment
affecting
lands may
be regis-
tered.

42. Every judgment or order affecting land may be registered in the registry office of the registry division in which the land is situate on a certificate signed by the proper officer of the court setting forth the substance and effect of the judgment or order and the land affected thereby. R.S.O. 1937, c. 170, s. 41.

(NOTE. — *As to registration of order of Mining Court vesting land in co-owner who has paid acreage tax, see The Mining Tax Act, Rev. Stat. c. 237.*)

Registrar to
deliver
certified
copy of
registered
instruments.

43.—(1) Where an instrument is registered the registrar shall deliver a certified copy or copies thereof as may be required of him, and of all the documents connected with or relating to the instrument, under his signature and seal of office, and in his certificate he shall state the time, place and other particulars of registration, and that the copy which he so delivers

is a true copy of the instrument, and of all the other documents connected with or relating to the instrument of which they respectively purport to be copies, and in the case of a will that the affidavit proving the due execution of it is deposited in his office.

(2) Every such certified copy may be registered in any other registry office, by deposit thereof, without production of the original instrument and without proof other than the production of the copy so certified. Registration of certified copy.

(3) Where an instrument is deposited in an office of land titles, or is registered in the office of the clerk of a county or district court, a copy thereof certified by the officer in whose office it is deposited or registered may be registered in any registry office in the same manner as a copy of an instrument certified by a registrar. Instrument in land titles or county or district court office.

(4) A power of attorney or other instrument conferring authority upon an officer or person to act for an incorporated company, executed by the company and deposited in the office of any department of the Government, may be registered by the deposit of a copy thereof certified by the proper officer of that department and without production of the instrument or proof of the execution thereof. R.S.O. 1937, c. 170, s. 42. Registration of powers of attorney deposited with Government department.

(NOTE.—As to evidence by certified copy, see *The Evidence Act, Rev. Stat. c. 119, ss. 49 and 50.*)

44. A notarial copy of an instrument executed in the Province of Quebec, the original of which is filed in a notarial office according to the law of Quebec, and a prothonotarial copy of an instrument executed in Quebec may be registered and shall be treated under this Act for all purposes as if it were the original instrument, and such notarial or prothonotarial copy with the seal of the notary or prothonotary attached shall be registered without any other proof of the execution of the original thereof. R.S.O. 1937, c. 170, s. 43. Registration of notarial copies of instruments executed in Quebec.

45. Every deed or conveyance and every charge or mortgage registered under this Act shall by endorsement thereon show the full name and place of residence, giving the street number, if any, of the grantee or mortgagee, as the case may be. R.S.O. 1937, c. 170, s. 44. Deed, conveyance and mortgage to contain full name and address of grantee or mortgagee.

INSTRUMENT IN FOREIGN LANGUAGE

46. Where an instrument or an affidavit of execution is written wholly or in part in a language other than English there shall be produced with the instrument or the affidavit Registering instruments in foreign languages.

of execution a translation into English, together with an affidavit by the translator stating that he understands both languages and has carefully compared the translation with the original, and that the translation is in all respects a true and correct translation, and the registrar shall not enter the instrument or affidavit in the language in which it is written but shall copy from the translation. R.S.O. 1937, c. 170, s. 45.

MANNER OF REGISTERING

Instruments
to be regis-
tered in
full unless
otherwise
provided.

47.—(1) Unless otherwise provided, every instrument which may be registered under this Act shall be registered upon and by delivery to and deposit with the registrar of the instrument or of a duplicate or other original part thereof with all necessary affidavits, and, unless otherwise provided, every such instrument shall be recorded at full length in the proper book, including every certificate and affidavit accompanying it, except the registrar's certificates.

Fees payable
before regis-
tration.

(2) The registrar shall not be bound to receive for registration or to register an instrument unless the proper fees are first paid.

Instruments
to be
stamped.

(3) Every instrument registered shall be forthwith stamped on every page by the registrar with a perforating stamp bearing the word "Registered". R.S.O. 1937, c. 170, s. 46.

Mortgages
not regis-
tered in full.

48.—(1) When a mortgage has endorsed upon it the words "Not to be recorded in full", the mortgage shall not be copied into the registry book.

Method.

(2) The mortgage shall be numbered as other instruments are required to be numbered in the registry book in its proper order, and the marginal note made as required by section 54, and the registrar shall at the time of the registration enter opposite the number in the registry book the words "Mortgage not recorded in full", and shall also give the date and names of the parties to the mortgage, the amount secured, the rate of interest, the amount and dates of payment set out in the proviso for redemption, the time for which the mortgage is to run and such a description of the land therein mentioned as will readily identify the location.

Particulars
of mortgage
not regis-
tered in full.

Fee on
registration.

(3) The fee payable for registration, not including more than four distinct parcels of land having a separate heading in the abstract index, shall be \$1.50, and for each additional parcel requiring entry to be made under a separate heading in the abstract index, five cents. R.S.O. 1937, c. 170, s. 47 (1-3).

Fee on regis-
tration of
mortgage
not regis-
tered in full.

(4) Where the mortgage embraces two or more parcels of land situate in different municipalities in the same registry division there shall be paid a further fee of \$1 for each muni-

cipality after the first. R.S.O. 1937, c. 170, s. 47 (4); 1947, c. 95, s. 2.

(5) After the registration of the mortgage the registrar, upon the application of any person claiming to be interested in the mortgaged land, and upon payment of the prescribed fees as set out in section 97, less the amount already paid for registration, shall cause the mortgage to be recorded in full in the registry book. Subsequent registry in full.

(6) The registrar shall indicate in the abstract index, in the case of the registration of a mortgage endorsed "Not to be recorded in full", that the same has not been recorded in full, and where it has afterwards been recorded in full under subsection 5, the registrar shall note in the abstract index opposite the entry "Subsequently recorded in full", giving the date of recording and the number and page of the registry book. Entry in abstract index where mortgage not registered in full.

(7) In this section, "mortgagee" includes the assignee of a mortgage and a person obtaining any security coming within the terms of section 35 and "mortgage" includes an assignment of a mortgage and an agreement to extend the time for payment of a mortgage or any such security. R.S.O. 1937, c. 170, s. 47 (5-7). Interpretation.

49.—(1) No instrument purporting to be signed or executed by any person by attorney shall be registered unless, at or before the time of registration, the original power of attorney, or a copy thereof certified for registration, is registered in the same registry office and the date of registration and registration number thereof are indicated in the body or margin of the instrument tendered for registration, but when the power of attorney or a certified copy thereof cannot be produced proof may be made before a judge of any county or district court of the execution of the instrument, and upon a certificate (Form 7) being endorsed on the instrument and signed by the judge that he is satisfied by the proof adduced of the due execution of the instrument the registrar shall register the instrument and certificate. R.S.O. 1937, c. 170, s. 48 (1); 1939, c. 40, s. 4. Registration of power of attorney when instrument executed by attorney.

(2) Where an instrument, signed or executed by any person by attorney, is registered the registrar shall enter a note of the fact of such signature or execution by attorney, giving the name of the attorney, on the abstract index and on all abstracts of title thereafter furnished by him relating to the land affected by the instrument. Special entry to be made when instrument executed by attorney.

(3) Subsection 1 shall not apply to instruments purporting to be executed by attorneys or commissioners for the Canada Company, the Trust and Loan Company of Canada, Exception.

the Scottish Ontario and Manitoba Land Company, the North British Canadian Investment Company, the North of Scotland Canadian Mortgage Company, Limited, or the Scottish American Investment Company. R.S.O. 1937, c. 170, s. 48 (2, 3).

Instrument
in two or
more parts.

50. Where an instrument in two or more original parts is registered the registrar shall endorse upon each of the parts a certificate of the registration (Form 8) and any part so certified shall be received as *prima facie* evidence of the registration of the instrument and of the due execution of the same. R.S.O. 1937, c. 170, s. 49.

Instruments
relating to
several lots
in different
localities.

51. Where an instrument includes parcels of land situate in different municipalities in the same registry division, it shall only be necessary to furnish the instrument or one original part of the instrument, with an affidavit of its execution, and the instrument and affidavit shall be copied into the registry book for each municipality or place wherein any of the land therein mentioned is situate, and the registrar shall make the necessary entries and certificates. R.S.O. 1937, c. 170, s. 50.

Affidavit or
declaration
as to con-
dition of
grantor.

52.—(1) Where a conveyance or mortgage is made by a man and no one joins therein as his wife it shall not be registered unless there is made on or securely attached to it an affidavit or statutory declaration by the man that he is married, unmarried, or a widower, as the case may be, and of the full age of 21 years. R.S.O. 1937, c. 170, s. 51 (1).

Affidavit or
declaration
as to
marriage.

(2) Where an assurance, deed, conveyance, mortgage, release or quit claim, executed after the 25th day of June, 1939, is made by a man and someone joins therein as his wife to bar dower, it shall not be registered unless there is made on or securely attached to it an affidavit or statutory declaration of the man or of the person joining therein as his wife to bar her dower deposing or declaring that they are legally married and that the man is of the full age of 21 years. 1939, c. 40, s. 5 (1, 3); 1941, c. 50, s. 2.

Dispensing
with affi-
davit or
declaration.

(3) Where it is made to appear to the judge of a county or district court that the affidavit or statutory declaration required by subsection 1 or 2 cannot be obtained conveniently the judge may, upon such evidence by affidavit or otherwise as he may deem proper, dispense with the affidavit or declaration, and thereupon shall endorse upon the instrument or firmly attach thereto his order directing the registrar to register the instrument notwithstanding the absence of the affidavit or declaration, and the registrar shall thereupon register the instrument. R.S.O. 1937, c. 170, s. 51 (2); 1939, c. 40, s. 5 (2).

(4) In the case of a conveyance the registrar shall copy the affidavit, declaration or judge's order in the register with the copy of the conveyance and the additional copying shall be computed and charged for as part of the deed.

Entry in register.

(5) This section shall not apply to a conveyance made in pursuance of power of sale contained in a mortgage, a conveyance or mortgage from a man wherein his wife is the grantee or mortgagee or one of them and is described as his wife therein, a conveyance or mortgage by persons who are the registered owners of the lands as trustees or as joint tenants or as holding the same as partnership property or under power of appointment, provided they are so described in the conveyance of the land to them, or to a mortgage of leasehold lands, or to a conveyance or mortgage made by an executor or administrator or a trustee under a will or by the Public Trustee or other person dealing with land in an official capacity. R.S.O. 1937, c. 170, s. 51 (3, 4).

Application of section.

53.—(1) When an instrument is registered the registrar shall make an entry thereof in the abstract and alphabetical index books, and record the instrument in the registry book in the order in which it is received, and file it with the affidavit of execution and any other affidavit or certificate accompanying it, and shall endorse on every such instrument and upon every duplicate or other original part of it a certificate (Form 8) and shall therein mention the year, month, day, hour and minute in which the instrument was registered, stating in what book it has been recorded, and the registration number, and shall sign the certificate, which shall be allowed and taken in all courts as evidence of the respective registries.

Copying into registry book.

Filing instrument and affidavit.

Certificate and its effect.

(2) The registrar shall see that all copies of instruments in the registry books are true copies, and he or his deputy or clerk shall certify all such copies by writing "Examined and certified true copy" in the margin opposite every copy in the book, appending his initials and the date.

Registrar to see that all copies in registers are correct.

(3) When a registry book is completed the registrar, his deputy or clerk, shall at the end thereof show by a statutory declaration that the copies contained in the book and certified by him are true copies of the original instruments of which they purport to be copies. R.S.O. 1937, c. 170, s. 52.

Statutory declaration of correctness.

54. Every page of the registry book and every instrument recorded therein shall be numbered and the year, month, day, hour and minute of registration shall be entered in the margin of the registry book (Form 9), and the entry shall be signed by the registrar or his deputy. R.S.O. 1937, c. 170, s. 53.

Pages and instruments to be numbered.

Minute of registration in margin.

CROWN GRANTS

Crown
grants.

55. Grants from the Crown shall be registered by registering the grant or an exemplification thereof or by producing the grant or an exemplification thereof, with a true copy thereof with an affidavit verifying the copy, and the copy shall be deposited with the registrar, and the correctness of it shall be verified by the registrar or his deputy. R.S.O. 1937, c. 170, s. 54.

ORDERS IN COUNCIL

Orders in
Council.

56. Orders in Council shall be registered by depositing a copy of the order certified by the clerk of the council in accordance with *The Custody of Documents Act*. R.S.O. 1937, c. 170, s. 55.

Rev. Stat.
c. 85.

WILLS

Registration
of wills.

57.—(1) A will shall be registered,

- (a) by the production of the original will and the deposit of a true copy thereof with an affidavit verifying the copy, and with an affidavit sworn to by one of the subscribing witnesses to the will proving the due execution thereof by the testator; or
- (b) by the production of probate or letters of administration with the will annexed, or an exemplification or certified copy thereof, under the seal of any court in Ontario, or in Great Britain and Ireland, or in any British province, colony, or possession, or in any foreign country having jurisdiction therein, and by depositing a true copy of the probate, letters of administration, or exemplification or certified copy with an affidavit verifying the copy or by depositing the probate, letters of administration, exemplification or certified or notarial copy.

Verification.

(2) The correctness of the sworn copy shall be verified by the registrar or his deputy.

Proof of
testator's
death.

(3) Where a will is registered by the production of the original will the affidavit of the subscribing witness or of some other person shall state that the testator is dead. R.S.O. 1937, c. 170, s. 56 (1 - 3).

Compliance
with require-
ments of
Rev. Stat.,
c. 378.

(4) Unless with the consent in writing of the Treasurer of Ontario, or of some one authorized by him to consent an original will or an exemplification or certified copy of probate or letters of administration with the will annexed under the seal of any court in Great Britain and Ireland, or in any British province, colony or possession, or in any foreign country having jurisdiction therein, shall not be registered under this section unless accompanied by a certificate of the

registrar of the surrogate court of the county in Ontario where the deceased had a fixed place of abode, or where the lands, or any of them, devolving by the will are situate, showing that an affidavit has been filed with him similar to that required by section 12 of *The Succession Duty Act*, and such certificate shall be deposited with the registrar. R.S.O. 1937, c. 170, s. 56 (4); 1939, c. 40, s. 6 (1). Rev. Stat. c. 378.

(5) All wills shall be recorded in the general register and properly indexed, and where a will contains a devise of or charges, or otherwise affects land described therein by a description sufficient to readily identify same, it shall also be entered in the abstract index against the lands so described. R.S.O. 1937, c. 170, s. 56 (5). Recording wills.

(6) Subject to subsection 4, whether letters probate or letters of administration have or have not been granted, no deed, grant, conveyance, mortgage, assignment of mortgage, discharge of mortgage or other instrument purporting to convey, transfer or assign, Consent of Treasurer required.

(a) any property standing in the name of a deceased person or held in trust for him or in the names of a deceased person and any other person;

(b) any property over which the deceased person had, at the time of his death a general power of appointment, notice of which appears in any register, book, document or instrument or on any abstract in the registry office;

(c) any property in which the deceased person at the time of his death had any registered beneficial interest whatsoever,

shall be tendered for registration, unless the consent in writing of the Treasurer of Ontario is attached thereto or endorsed thereon, and until such consent is given, notwithstanding anything contained in *The Devolution of Estates Act*, any land so conveyed shall not vest in the person beneficially entitled thereto or his assigns or any person claiming under him. R.S.O. 1937, c. 170, s. 56 (6); 1941, c. 50, s. 3. Rev. Stat. c. 103.

(7) The Treasurer of Ontario may issue a general certificate that all succession duty payable in respect of the estate or any lands forming part of the estate of a deceased person have been paid and satisfied or that security for such payment as required under *The Succession Duty Act* has been given, and upon registration of the certificate it shall not be necessary that subsection 6 be complied with in respect to any lands described in the certificate; provided the date of registration and registration number of such general certificate are indi- General certificate.

cated in the body or margin of the instrument tendered for registration. R.S.O. 1937, c. 170, s. 56 (7); 1939, c. 40, s. 6 (2).

Certificate
to contain
description
of lands.

(8) A certificate to be registered under subsection 7 shall contain a local description of the lands mentioned therein or a description by reference to a registered instrument and registration thereof shall be made by production of the original certificate and deposit of a true copy thereof or of so much thereof as relates to the lands situate in the registry division for which the same is to be registered with an affidavit verifying such copy.

Recording
certificate.

(9) Certificates registered under subsection 8 shall be recorded in the general register and particulars thereof entered in the abstract index against the lands described therein.

Consent
required
only once.

(10) Notwithstanding anything herein the above consent shall be required only once in connection with the same property in the same estate.

Application
of
subss. 6-10.

(11) Subsections 6 to 10 shall not apply where the deceased person died prior to the 1st day of January, 1930. R.S.O. 1937, c. 170, s. 56 (8-11).

LETTERS OF ADMINISTRATION

Registration
of letters of
administration.
Rev. Stat.
c. 103.

58. Letters of administration which under *The Devolution of Estates Act* affect land shall be registered in the same manner as a probate of a will. R.S.O. 1937, c. 170, s. 57.

PROBATES AND LETTERS OF ADMINISTRATION TO BE REGISTERED

Registration
of wills or
letters of ad-
ministration
when con-
veyance
made.

59. No instrument purporting to convey or otherwise deal with land in any manner shall be registered if executed by any person as devisee, legatee, executor or administrator of the estate of a deceased person who at the time of his death appears from the register to have been in any wise possessed of or interested in the land in question unless before the time of registration of the instrument the will or the letters probate of the will or the letters of administration under which the person executing the instrument claims to be entitled has or have been registered in the registry division in which the land in question is situate and the date of registration and registered number thereof have been inserted in the body of the instrument or in its margin. R.S.O. 1937, c. 170, s. 58.

NOTICE OF SALE UNDER MORTGAGE

Registration
of notice of
sale.

60.—(1) A notice of sale of land under *The Mortgages Act*, and a notice of exercising the power of sale contained in any mortgage and the affidavit or declaration of service thereof may be registered, and shall be registered in the same manner

Rev. Stat.
c. 239.

as an instrument affecting land; provided that no affidavit of execution shall be required and it shall not be necessary to record the notice or the affidavit or declaration of service attached thereto in the registry book. R.S.O. 1937, c. 170, s. 59 (1); 1938, c. 31, s. 3.

(2) The affidavit or declaration shall be made by the person who served the notice, and shall prove the time, place and manner of the service, and that the copy delivered to the registrar is a true copy of the notice served. Proof for registration.

(3) A copy of the registered notice and affidavit or declaration certified under the hand and seal of office of the registrar shall be *prima facie* evidence of the service of the notice as stated in the affidavit or declaration. Certified copy to be evidence.

(4) Where the person who served the notice is dead or out of Ontario, or where it is proved to the satisfaction of a judge of a county or district court that the place of abode of such person is unknown, or that he is incapable of making an affidavit or declaration of service, or where service of the notice has been or is duly admitted any person who is or who claims to be interested in the registration of the notice may make proof before the judge of the service of the notice, and upon a certificate of the judge endorsed on or attached to the notice and signed by him to the effect that from the proof adduced by the person producing the proof, naming him, he is satisfied of the due service of the notice, the registrar shall register the notice and certificate. Proof of notice of sale under mortgage.

(5) Where the notice cannot be produced to be registered, any person who is or who claims to be interested in the registration of the notice may make proof before the judge of the service thereof and of the inability to produce the notice, and upon depositing a certificate of the judge to the effect that from the proof adduced by the person producing the proof, naming him, he is satisfied of the due service of the notice upon the person served, naming him, and that the notice cannot be produced, the registrar shall register the certificate, and a copy of such certificate under the hand and seal of the registrar shall be *prima facie* evidence of the facts therein stated. Where notice of sale lost and cannot be produced.

(6) Where a notice of sale or a certificate of a judge under subsection 4 or 5 has been registered, the notice or certificate may be registered in any other registry office by depositing a copy thereof, certified in the manner provided by section 43. R.S.O. 1937, c. 170, s. 59 (2-6). Other registry offices.

(7) No final order of foreclosure or instrument purporting to be a conveyance of land under power of sale contained in an unregistered mortgage or a mortgage which has been registered When mortgage to be recorded in full.

"not in full" shall be registered until the mortgage and any assignment thereof has been duly registered and copied in full in the proper registry book pursuant to subsection 5 of section 48. R.S.O. 1937, c. 170, s. 59 (7); 1939, c. 40, s. 7.

Rev. Stat.
cc. 190, 120,
227, 236,
229.

(NOTE.—As to registration of orders and judgments for alimony, see *The Judicature Act*; as to registration of notice of seizure of a mortgage by sheriff, see *The Execution Act*; as to registration of mechanics' liens and discharges of liens, see *The Mechanics' Lien Act*, and for liens on mining claims and rights, *The Mining Act*. See also *The Northern Development Act*, being Chapter 34 of the Revised Statutes of Ontario, 1937, and *The Mental Hospitals Act*.)

INSTRUMENTS EXECUTED BEFORE THE 1ST JANUARY, 1866

Registration
of instru-
ments
executed be-
fore 1st Jan.,
1866.

61. The registration of an instrument executed before the 1st day of January, 1866, may be made through a memorial or by certificate or otherwise, as provided by the law in force before that date. R.S.O. 1937, c. 170, s. 60.

Proof of
registration
of instru-
ments in full
executed
before 1st
Jan., 1866,
etc.

62. The proof that would before the 1st day of January, 1866, have been sufficient for the registration of an instrument executed before that date, shall be sufficient for the registration of any such instrument, but the instrument shall be recorded at full length, and the memorial and affidavit shall be deposited with the registrar in lieu of the original. R.S.O. 1937, c. 170, s. 61.

Registration
of instru-
ments in full
when
memorials
previously
registered.

63.—(1) An instrument which has been registered by memorial, and has endorsed thereon a certificate of the registration thereof, may be re-registered in the same or any other registry division by the production of the original instrument and by the deposit of a copy with an affidavit verifying the same.

Method.

(2) The registrar shall record the instrument, the affidavit of verification and the certificate of former registration at full length, and shall write in the margin of the registry book the words "Original not deposited", and, where the former registration was made in the same office, the registrar shall write upon the entry of the memorial in the registry book a memorandum as follows: "Re-registered and recorded in full as No.", giving a reference to the number and registry book where the instrument is recorded in full, and he shall also note the re-registration in red ink wherever the memorial is entered in an abstract index.

Endorse-
ment.

(3) The registrar shall also endorse upon the original instrument a certificate of the re-registration (Form 8). R.S.O. 1937, c. 170, s. 62.

DISCHARGES OF MORTGAGES

64.—(1) In the case of a registered mortgage the registrar on receiving a certificate (Form 10), executed by the mortgagee, his executors, administrators or assigns, or by such other person as may be entitled by law to receive the money and to discharge the mortgage, and duly proven in the manner provided for the proof of other instruments, shall register the certificate, and record it and every affidavit attached to or endorsed on it, at full length in the proper order, in the registry book, and number it in like manner as other instruments are required to be registered, recorded and numbered. R.S.O. 1937, c. 170, s. 63 (1).

Registration of discharge of mortgage.

(2) Where a discharge of mortgage is tendered for registration there shall be produced to the registrar the duplicate mortgage and assignments thereof, if any, or a declaration by the person signing the discharge stating that the original duplicate mortgage or duplicate of any assignment thereof cannot be produced and the reason therefor, and in such case the declaration shall be securely attached to and filed away with the discharge and the duplicate so produced shall be returned to the party registering the discharge; provided that where any such assignment includes a mortgage of other property, production of that assignment shall not be required. R.S.O. 1937, c. 170, s. 63 (2); 1938, c. 31, s. 4 (1).

Production and cancellation of duplicate mortgage on registering discharge.

(3) Where the person signing the discharge has since died or is out of Ontario or his place of residence is unknown to the person interested in the registration of the discharge, or where in the opinion of the registrar for any other reason the necessary declaration cannot be obtained conveniently, the registrar may register the discharge upon receiving a declaration from some person having a knowledge of the facts stating reasons satisfactory to the registrar why a declaration by the proper person cannot be obtained, provided that if the registrar then refuses to register the discharge, the person interested in the registration of the discharge may apply to a county judge for an order permitting the registration, and in such case the declaration or judge's order shall be securely attached to and filed with the discharge. R.S.O. 1937, c. 170, s. 63 (3).

Absence from Ontario of person signing discharge.

(4) The duplicate mortgage and any duplicate assignment produced, before being returned, shall be stamped by the registrar with a perforating stamp bearing the words "Discharge Registered" across the signatures of the parties executing the mortgage and assignment, if any, and on the registrar's certificate of registration. R.S.O. 1937, c. 170, s. 63 (4); 1938, c. 31, s. 4 (2).

Stamping discharged mortgage.

(5) No additional fee shall be charged for filing the declaration referred to in subsections 2 and 3 and it shall not be neces-

Fee not to be charged.

sary to copy the declaration in the register. R.S.O. 1937, c. 170, s. 63 (5).

Discharge of mortgages held by amalgamated loan corporations.

65. Where a loan corporation which has acquired the assets of another loan corporation by amalgamation of such corporation desires to discharge any of the mortgages of such corporation and the certificate of amalgamation has been registered, it shall be sufficient to set forth in the instrument to be registered the fact of the assent of the Lieutenant-Governor in Council to the amalgamation with the date of the certificate of amalgamation and its registered number in the registry division in which the land affected is situate, or mentioning the Act by which the loan corporations were amalgamated or by which the agreement was ratified, and upon registration of the discharge the registrar shall enter in the abstract index the facts mentioned in the discharge. R.S.O. 1937, c. 170, s. 64.

Registration of discharge when mortgage paid off by subsequent mortgagee.

66.—(1) Where a mortgage has been paid off by any person advancing money by way of a new loan on mortgage on the same land and the mortgage so paid off or the discharge thereof is held by the mortgagee making the new loan, the discharge of the mortgage so paid off shall be registered within six months from the date thereof, unless the mortgagor has authorized, in writing, the retention of the discharge for a longer period.

Rights of subsequent mortgagee.

(2) The registration shall not affect the right, if any, of the mortgagee who may have paid off such mortgage, his assignee, or any person claiming under him, by purchase or otherwise, to be subrogated to the rights of the mortgagee whose mortgage debt has been so paid. R.S.O. 1937, c. 170, s. 65.

Registration of discharge given by person other than the mortgagee.

67.—(1) Where the person entitled to receive the mortgage money and to discharge a registered mortgage is not the original mortgagee, he shall, at his own expense, cause to be registered before the registration of the certificate of discharge all the instruments or documents through which he claims interest in and title to the mortgage money, and until those instruments or documents are registered the certificate of discharge shall not be tendered for registration or registered. R.S.O. 1937, c. 170, s. 66 (1); 1939, c. 40, s. 8 (1).

Where document lost or destroyed.

(2) Where it is made to appear to the judge of a county or district court that any instrument or document through which any person claims interest in and title to mortgage money has been destroyed or cannot be found, the judge may, upon such evidence by affidavit or otherwise as he may deem proper, dispense with the registration thereof and thereupon

shall endorse upon the certificate of discharge or firmly attach thereto his order directing the registrar to register the certificate of discharge notwithstanding the failure to register the instrument or document, and the registrar shall thereupon register the certificate of discharge. 1939, c. 40, s. 8 (2).

(3) The certificate shall mention the date and the date of registration and the registration number of each of the instruments or documents through which the person executing the certificate claims interest in and title to the mortgage money, and the names of the parties thereto. Contents.

(4) This section shall apply to powers of attorney where the certificate of discharge or prior instrument or document is executed by attorney, provided that it shall be sufficient in the certificate of discharge to state the date of each instrument, document or power of attorney and the names of the parties thereto, and to endorse on the certificate the date of registration and registration number of each instrument, document, or power of attorney, which endorsement shall be signed by the person who signed the certificate, or his attorney or agent, and the endorsement shall be deemed to be part of the certificate. Application of section.

(5) Where probate of will or letters of administration with the will annexed is required to be registered under this section, and the will is over seven folios in length, including the probate or letters, and does not affect land in the registry division, except in so far as the testator was the holder of a mortgage, it shall not be necessary to record the will at full length; but it shall be sufficient to deposit a copy of and record so much of the probate or letters as shows the grant of probate or letters and the appointment of executors or administrators. Registering probate or letters of administration.

(6) The copy shall be accompanied by an affidavit of the executors or administrators, or of one of them, or of his or their solicitor, verifying it and stating that there is nothing in the will limiting the right of the executors or administrators to receive the mortgage money and discharge the mortgage, and that the will does not affect land in the registry division in which the probate or letters is to be registered, except in so far as the testator was the holder of a mortgage comprising land in the registry division. Verification.

(7) Where the person whose duty it is to register such instruments or documents refuses or neglects to register them within 15 days after payment of the mortgage money to him, the person entitled to redeem the mortgage may, on giving 10 days notice in writing to the person so refusing or neglecting, apply in a summary manner to a judge of the county or district Application to judge for order to register instruments authorizing discharge to be given.

court of the county or district wherein the land or any part thereof mentioned in the mortgage is situate for an order directing that the person so refusing or neglecting shall within a time to be fixed by the judge register the instruments or documents at his own expense, and the judge, upon being satisfied by affidavit or oral evidence that the application is a proper one, may make the necessary order.

Powers of judge.

(8) On being satisfied of the due service of the notice the judge may proceed in the absence of the person so refusing or neglecting.

Form of notice.

(9) The notice shall state that it is given in pursuance of this section. R.S.O. 1937, c. 170, s. 66 (2-8).

Release of part only of lands mortgaged.

68.—(1) Where the holder of a mortgage desires to release or discharge part of the land comprised in it, or to release or discharge part of the money secured by the mortgage, he may do so by deed or by certificate to be made, executed, proven, and registered in the same manner and with the like effect to the land or money released or discharged as when the whole land and mortgage are released and discharged.

Description in deed or certificate.

(2) The deed or certificate shall contain as precise a description of the land released or discharged as is required in an instrument of conveyance for registration, and also a precise statement of the particular sum so released or discharged. R.S.O. 1937, c. 170, s. 67.

Effect of registration of discharge of mortgage.

69. Every certificate of payment or discharge of a mortgage or of the conditions therein or of the lands or any part thereof, at any time given, and whether before or after the time limited by the mortgage for payment or performance, if in conformity with this Act shall, when registered, be a discharge of the mortgage or of the lands described in the certificate, as the case may be, and shall be as valid and effectual in law as a release of the mortgage or of the lands and as a conveyance to the mortgagor, his heirs or assigns of the original estate of the mortgagor therein. R.S.O. 1937, c. 170, s. 68.

Discharge of mortgage seized under execution.

70.—(1) Where a sheriff, bailiff of a division court or other officer, under a writ or warrant of execution against goods, seizes a mortgage belonging to the person against whose goods the writ or warrant has issued, on or affecting land in Ontario, the payment of the mortgage money in whole or in part to the sheriff, bailiff, or other officer by the mortgagor, or any other person or any person claiming under him, shall satisfy the mortgage to the extent of such payment.

(2) After payment of the mortgage money or any part thereof, the sheriff, bailiff, or other officer shall, at the request and expense of the person requiring it, give a certificate (Form 11) under the hand and seal of office of the sheriff or other officer, or under the hand of the bailiff and the seal of the court of which he is bailiff.

Form of certificate of discharge.

(3) Upon the written request of the bailiff the clerk of the court shall affix to the certificate the seal of the court and he shall file the request of the bailiff in his office.

Seal of court.

(4) The execution of the certificate shall be proved in the same manner as in the case of other instruments affecting land, and the certificate shall be registered in the same manner as other certificates of discharge.

Proof of execution of certificate.

(5) The certificate when registered, if it is of payment in full of the mortgage, shall be as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor.

Effect of certificate.

(6) The certificate when registered, if it is of payment of only a part of the mortgage money, shall be as valid and effectual in law as a release of the mortgage, as to such part, as if executed by the execution debtor.

Effect of certificate of part payment.

(7) Where a mortgage has been seized by a sheriff or bailiff of the division court or other officer in the manner provided by law, and the seizure has been withdrawn, vacated or for any other reason set aside, the sheriff, bailiff or other officer under whose hand notice of seizure has issued, may give a certificate directed to the registrar in whose office the notice of seizure is registered, to the effect that the seizure has been withdrawn, vacated or set aside as the case may be, and the certificate shall be registered in the registry office in the same manner and for the same fee as a discharge of mortgage. R.S.O. 1937, c. 170, s. 69.

Notice of seizure of mortgage.

71. Instruments of the nature mentioned in section 35 may be discharged, and the land affected thereby released therefrom by depositing in the proper registry office a certificate of discharge (Form 12). R.S.O. 1937, c. 170, s. 70.

Discharge of instrument given in relation to purchase of goods.

72.—(1) Where a mortgage registered since the 1st day of January, 1890 is purported to be discharged and the certificate purporting to be the discharge thereof has been registered for ten or more years, and wherever a certificate of *lis pendens* registered since the 1st day of January, 1890, has been

Marking off certain entries.

vacated and the certificate of the judgment or order vacating it has been registered for two or more years, the registrar shall wherever the mortgage or the discharge thereof or any other instrument dealing exclusively with the mortgage and wherever the certificate of *lis pendens*, certificate of judgment or order vacating the same appear on any abstract index in his office, draw a line in red ink through all such entries and initial and date the same, and the lands described in the mortgage or certificate of *lis pendens* shall be validly discharged therefrom.

Partial
discharge.

(2) Where a certificate purporting to be a partial discharge of mortgage registered since the 1st day of January, 1890, has been registered for ten or more years and the mortgage does not affect any portion of the lot other than the portion described in the certificate of partial discharge, the provisions of subsection 1 shall apply to the partial discharge of mortgage in like manner as they would to the mortgage if wholly discharged.

Application
of subss. 1, 2.

(3) Subsections 1 and 2 shall extend to and include also instruments described in and registered under sections 35, 70 and 71.

Mechanics'
liens.

(4) Where a mechanic's lien registered since the 1st day of January, 1890, is purported to be discharged and the document purporting to be the discharge thereof has been registered for two or more years and wherever a mechanic's lien registered since the 1st day of January, 1890, has been registered for two years and no certificate of action has been registered as required by *The Mechanics' Lien Act*, and wherever a mechanic's lien has been so registered and a certificate of action has also been registered and the certificate of action has been vacated or discharged and the order or certificate of order vacating or discharging it has been registered for two or more years, the registrar shall, wherever such mechanic's lien or any assignment or discharge thereof, certificate of action, or order, or certificate of order vacating the same, appear on any abstract index in his office, draw a line in red ink through all such entries and initial and date the same and the mechanic's lien shall be validly discharged and the certificate of action shall be duly vacated.

Rev. Stat.,
c. 227.

Partial
discharge.

(5) Whenever a mechanic's lien has been registered as required by *The Mechanics' Lien Act* and a certificate of action has also been registered, and the certificate of action has been partially vacated or discharged, and the order vacating does not affect any portion of the lot other than the portion described in the vacating order, and the order or certificate of order partially vacating or discharging the same has been registered for two or more years, the provisions as to striking out shall apply.

(6) Where the Inspector considers it advisable he may authorize a registrar to employ such additional assistance as may be necessary to do properly the work required to be done by this section and in determining the amount to be allowed for this work, the cost of such assistance shall be taken into consideration by the Inspector. R.S.O. 1937, c. 170, s. 71.

Employment of additional assistance.

BY-LAWS, ETC.

73.—(1) Every by-law passed after the 29th day of March, 1873, by a municipal council under the authority of which any street, road or highway is closed or under the authority of which any street, road or highway is opened upon any private property shall, before it becomes effectual in law, be registered in the registry office of the registry division in which the land is situate, and the by-law shall be registered without further proof by depositing a copy certified under the hand of the clerk and the seal of the municipality.

Registration of by-laws passed since 29th March, 1873.

(2) Every by-law passed before the 29th day of March, 1873, and every order and resolution of the quarter or general sessions of the peace passed before that day under the authority of which any street, road or highway has been opened upon any private property may at the election of any person or municipality interested and at the cost and charges of that person or municipality be registered by depositing a certified copy of the by-law under the hand of the clerk and the seal of the municipality, or a certified copy of the order or resolution of the quarter or general sessions under the hand and seal of the clerk of the peace.

As to by-laws etc., relating to roads made before 29th March, 1873.

(3) Every by-law, proclamation, Order in Council, order of the Ontario Municipal Board and other instrument of a public or *quasi* public nature whereby a village, town or city becomes incorporated, or the boundaries of any municipality are enlarged, diminished or altered, shall be registered in the proper registry office by the municipality passing or procuring the same, and a copy of a by-law, certified under the seal of the corporation and by the head and the clerk of the municipality, and a copy of the proclamation, Order in Council, order of the Ontario Municipal Board or other instrument certified by the clerk of the Executive Council or the secretary of the Board, as the case may be, shall be sufficient proof for the purpose of registration.

By-laws, etc., changes in municipal boundaries.

(4) A money by-law of a municipal corporation shall be authenticated for registration by the production of a duplicate original or a copy of the by-law certified as required by *The Municipal Act*.

Authentication of money by-laws. Rev. Stat. c. 243.

(5) The by-law or copy so certified shall be open to public inspection and examination at all reasonable times and hours upon payment of the proper fees. R.S.O. 1937, c. 170, s. 72.

Inspection.

REGISTRATION AND ITS EFFECT

Unregistered instruments after grant from the Crown to be void against subsequent registered purchaser or mortgagee.

74.—(1) After the grant from the Crown of land, and letters patent issued therefor, every instrument affecting the land or any part thereof shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration without actual notice, unless the instrument is registered before the registration of the instrument under which the subsequent purchaser or mortgagee claims. B-7

Exception as to certain leases.

(2) This section shall not extend to a lease for a term not exceeding seven years where the actual possession goes along with the lease, but it shall extend to every lease for a longer term than seven years. R.S.O. 1937, c. 170, s. 73. 74

Actual notice.

75. Priority of registration shall prevail unless before the prior registration there has been actual notice of the prior instrument by the person claiming under the prior registration. R.S.O. 1937, c. 170, s. 74. no impute notice only

Equitable liens, and tacking.

76. No equitable lien, charge or interest affecting land shall be valid as against a registered instrument executed by the same person, his heirs or assigns, and tacking shall not be allowed in any case to prevail against the provisions of this Act. R.S.O. 1937, c. 170, s. 75.

Mortgages, how affected by subsequent registered conveyances, where mortgage money paid subsequently.

77. Every registered mortgage shall as against the mortgagor, his heirs, executors, administrators, assigns and every other person claiming by, through or under him, be a security upon the land comprised therein to the extent of the money or money's worth actually advanced or supplied under the mortgage, not exceeding the amount for which the mortgage is expressed to be a security, notwithstanding that the money or money's worth, or some part thereof, was advanced or supplied after the registration of a conveyance, mortgage or other instrument affecting the mortgaged lands, executed by the mortgagor, his heirs, executors or administrators, and registered subsequently to the first-mentioned mortgage, unless, before advancing or supplying such money or money's worth, the mortgagee in the first-mentioned mortgage had actual notice of the execution and registration of such conveyance, mortgage or other instrument, and the registration of such conveyance, mortgage or other instrument after the registration of the first-mentioned mortgage, shall not constitute such actual notice. R.S.O. 1937, c. 170, s. 76. police mortgage secured by Reg. Act not

Registration to be notice.

78. The registration of an instrument under this or any former Act shall constitute notice of the instrument to all persons claiming any interest in the land, subsequent to such registration, notwithstanding any defect in the proof for

registration, but nevertheless it shall be the duty of a registrar not to register any instrument except on such proof as is required by this Act. R.S.O. 1937, c. 170, s. 77.

79. An instrument which is or purports to be a power of attorney or authority to sell land in which the commission, payment for services, or other remuneration of the attorney or agent is made a charge on the land, shall, as against a subsequent purchaser or mortgagee for valuable consideration and as against the creditors of the person giving the power or authority, cease to charge the land with the commission, payment for services, or remuneration after the lapse of one year from the making of the instrument. R.S.O. 1937, c. 170, s. 78.

Instruments giving authority to sell and naming commission, not to bind land after one year from date.

80. A will or the probate thereof and letters of administration with the will annexed registered within 12 months next after the death of the testator shall be as valid and effectual against subsequent purchasers and mortgagees as if the same had been registered immediately after the death, and in case the devisee, or person interested in the land devised in any such will, is disabled from registering the same within such time by reason of the contesting of such will or by any other inevitable difficulty without his wilful neglect or default, then the registration of the same within 12 months next after his attainment of such will, probate or letters of administration, or the removal of such impediment shall be a sufficient registration within the meaning of this Act. R.S.O. 1937, c. 170, s. 79.

Wills to be registered within 12 months from death of testator.

81. A deed of land made by a treasurer or other officer in pursuance of a sale for arrears of taxes shall be registered within eighteen months after the sale, and a deed of land sold under process issued from any court shall be registered within six months after the sale; otherwise any person claiming under any such sale shall be deemed not to have preserved his priority as against a purchaser or mortgagee for valuable consideration without actual notice who has registered his conveyance before the registration of such deed. R.S.O. 1937, c. 170, s. 80.

Registration of deeds on sales for taxes and sales under process of court.

82.—(1) Except in the manner hereinafter provided after an instrument has been entered in the abstract and alphabetical indexes, and has been recorded in the proper registry book, no entry shall be made in the abstract index or in the alphabetical index respecting the instrument; nor shall any alteration or correction be made in any entry previously made respecting any instrument, or in any copy of any instrument in any registry book.

Corrections.

(2) The registrar shall immediately after becoming aware of any omission or error in recording cause to be made in red

Method.

ink such entries, alterations or corrections as are requisite, and a memorandum stating the date of every such entry, alteration or correction shall be made in red ink in the margin of the index or registry book opposite or near thereto, and the memorandum shall be signed by the registrar or his deputy. R.S.O. 1937, c. 170, s. 81.

When
instruments
to be deemed
registered.

83. An instrument capable of and properly proved for registration and in respect of which the fees prescribed by this Act or demanded by the registrar have been paid shall be deemed to be registered when and so soon as it is delivered either personally or by post to and received at his office during office hours by the registrar, or some officer or clerk in his office on his behalf, and thereafter no alteration shall be made by any person in the instrument. R.S.O. 1937, c. 170, s. 82; 1939, c. 40, s. 9.

MISCELLANEOUS PROVISIONS

PLANS

Registration
of plans
where land
subdivided.

84.—(1) Where land is surveyed and subdivided for the purpose of being sold or conveyed in lots by reference to a plan which has not been already registered the person making the survey and subdivision shall within three months thereafter register a plan of the land on a scale not less than one inch to every four chains.

Contents
of plan.

(2) The plan shall show the number of the township, city, town or village lots and range or concession as originally laid out, and all the boundary lines thereof, within the limits of the land being subdivided except where the plan is a subdivision of a lot or lots on a former plan, in which case it shall show the numbers or other distinguishing marks of the lot or lots subdivided and the boundary lines thereof.

Scale and
particulars.

(3) The number or other distinguishing mark and the width both front and rear shall be marked on each lot of the subdivision, the scale shall also be marked on the plan, and such information as will show the depth of the lots and the courses of all the boundaries of, or the division lines between the lots, and the governing line or lines to which such courses are referred shall also be indicated.

Idem.

(4) The position of all the posts or monuments, if any, planted by the surveyor, or of other objects marking the boundaries of any of the lots or the corners thereof shall also be shown.

Highways
and topo-
graphical
features.

(5) The plan shall also show all roads, streets, railway land, rivers, canals, streams, lakes, mill-ponds, marshes or other marked topographical features within the limits of the

land so subdivided, together with such other information as is required to show distinctly the position of the land.

(6) On every such plan the lots shall be so described and designated by numbers, letters or words that there shall not be more than one lot on the plan described and designated by the same number, letter or word, notwithstanding that the lots are on different sides of the same street or on different streets or in different blocks, and where the designation is by number the lots shall be numbered consecutively, but the provisions of this section shall not apply to plans of burial plots in cemeteries. Designation of lots.

(7) The plan shall be drawn upon linen and shall be mounted on stiff pasteboard of good quality, and when it exceeds 30 inches in length by 24 inches in width, shall be folded so as not to exceed that size, and upon the registration of every such plan there shall be deposited with the registrar a true copy thereof unmounted which may be made by photo-static, photographic or blue-print process, or any other process approved by the Inspector. Plans to be mounted.

(8) The plan, before being registered, shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the plan is deposited, and shall also be certified by an Ontario land surveyor (Form 13). Duty of registrars thereafter.

(9) In the case of a survey hereafter made the plan shall be accompanied by a copy certified by the surveyor by whom the survey was made to be a true copy of the field notes, if any, of the survey. Registration of field notes and plans.

(10) After the registration of the plan the registrar shall keep an index of the land described and designated by any number or letter on the plan by the name by which it is so designated. Index.

(11) Every instrument affecting the land or any part thereof, executed after the plan is registered, shall conform and refer thereto, otherwise it shall not be registered, except in cases provided for by section 88. Instruments must conform to such plan.

(12) In the case of refusal or neglect by the person making the subdivision, for two months after demand in writing for that purpose, to register the plan in accordance with the provisions of this Act, when required by any person interested therein or by the Inspector so to do, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$20 for every calendar month which thereafter elapses without the plan being registered. Penalty for refusing to register plan.

(13) The signature on a plan shall be witnessed and verified as in the case of an instrument. R.S.O. 1937, c. 170, s. 83 (1-13). Verification of signature to plans.

What to be deemed street or highway.

(14) Any public or private street, way, lane or alley or block, tract or lot, being the only access to a lot or lots laid down on a plan of survey and subdivision, shall, for the purposes of this section, be deemed to be a street or highway.

Plans of unpatented lands.

(15) The registrar shall not register a plan of a subdivision of land for which the Crown patent has not issued unless the assent of the Minister of Lands and Forests to the registration is endorsed on the plan.

Registrar not to file plans for any one but owner nor without consent of mortgagees.

(16) The registrar shall not register a plan of a subdivision of land unless the person by whom or on whose behalf the plan is tendered for registration appears on the registry books to be the owner of the land, nor unless the consent in writing of all persons who appear by the registry books to be mortgagees of the land is endorsed on the plan and signed by such persons, or in the case of a corporation, by its chief officer, and such signatures are duly verified by affidavit; provided however that nothing in this section shall be deemed to require the consent to any such plan of the owner of any easement or right in the nature of an easement in respect to the land.

Duty of the registrar on receiving plan.

(17) When any such plan has been so registered the registrar shall make a record of it and enter on it the day and year on which it is registered. R.S.O. 1937, c. 170, s. 83 (16 - 19).

Where Rev. Stat. c. 277 applies.

(18) No plan of survey or subdivision to which *The Planning Act* applies shall be registered unless approved under that Act. 1947, c. 101, s. 17 (3).

Application of this section.

(19) Subject to section 89, this section shall apply as well to land already surveyed and subdivided as to that which may hereafter be surveyed and subdivided. R.S.O. 1937, c. 170, s. 83 (21).

Plan index book.

85. The Inspector may direct that a plan index book, in the form prescribed by him, shall be kept by the registrar, and the municipal treasurer shall pay to the registrar on the order of the Inspector such sum as he may direct for the preparation in the first instance of the book and the work incidental thereto. R.S.O. 1937, c. 170, s. 84.

Abstract index to subdivisions of township or park lots in urban municipality.

86.—(1) Whenever the Inspector deems that the public convenience so requires he may direct the registrar to subdivide any township, park or other lots in a city, town or village into such blocks for abstract purposes as, having regard to conveyances registered upon such lots and otherwise, he considers most convenient, and in such case an abstract index shall be prepared by the registrar for each of such blocks as if it had been originally a separate lot, and the

same shall extend from the Crown patent onwards or from or to such other date as the Inspector may direct, and shall contain those registrations only which affect the subdivision to which the index relates.

(2) Where the original lines of the lots do not form the boundaries of such blocks, public streets or such other limits as the Inspector directs shall be taken as the boundaries thereof. Idem.

(3) Where a plan of a subdivision of a lot or part of a lot has been or is registered the registrar, when directed so to do by the Inspector, shall prepare an abstract of all instruments affecting the part subdivided, and enter the same in the page or pages of the abstract index book immediately preceding the abstract as to the first lot on the plan. Abstract index to original lots.

(4) Whenever a further subdivision of any of the lots on a plan is made the registrar, when directed so to do by the Inspector, shall prepare and enter in like manner an abstract of all instruments affecting the part so subdivided from the registration of the previous plan. Idem.

(5) The registrar shall be allowed for preparing such abstracts, so far as they relate to instruments registered prior to the Inspector's directing the subdivision, such amount as the Inspector may determine to be reasonable for the services, and the same shall be paid by the owner who registers the plan, or by the county or city, as the Inspector may direct. Remuneration of registrar.

(6) For abstracts prepared for the purposes of plans hereafter registered the registrar shall be entitled to receive from the persons registering the plans the prescribed fees for preparing an abstract in addition to the fees to be paid for registering the plans. Idem. R.S.O. 1937, c. 170, s. 85.

87. No instrument referring to an unregistered plan shall be registered unless an instrument referring to the plan has been registered in respect of the same land, and if the registrar objects to the registration of an instrument on the ground that it refers to an unregistered plan he may refuse to register the instrument unless the person desiring its registration refers the registrar to the number of an instrument registered in respect of the same land referring to the unregistered plan. Registration of instrument referring to an unregistered plan. R.S.O. 1937, c. 170, s. 86.

88.—(1) Where an instrument which does not conform and refer to the proper plan has been duly executed and any party thereto has died, or where it would, in the opinion of the registrar, be impossible or inconvenient to obtain a new instrument containing the proper description, the instrument may be registered if accompanied by an affidavit (Form 14) annexed thereto or endorsed thereon. When instruments not conforming to proper plan may be registered.

Duty of registrar.

(2) The registrar shall thereupon enter the instrument in the abstract index in which the subdivision is entered under the lots designated in the affidavit, and no entry shall be made in the abstract index of the land before its subdivision. R.S.O. 1937, c. 170, s. 87.

Plan not binding until some sale is made under it; alterations in plan.

89.—(1) A plan, although registered, shall not be binding on the person registering it, or upon any other persons unless a sale has been made according to the plan, and in all cases amendments or alterations thereof may be authorized or ordered to be made by a judge of the Supreme Court or by a judge of the county or district court of the county or district in which the land lies, on application for the purpose and upon hearing all persons concerned, upon such terms and conditions as to costs and otherwise as may be deemed just.

Applicant.

(2) Any such application may be made either by the person filing the plan or by the owner for the time being of any of the land covered thereby.

Appeal.

(3) An appeal shall lie from any such order to the Court of Appeal.

Consent of owner to alteration or closing of road.

(4) No part of a road, street, lane or alley upon which any lot of land sold abuts, or which connects any such lot with or affords access therefrom to the nearest public highway, shall be altered or closed up without the consent of the owner of such lot; but nothing herein shall interfere with the powers of municipal corporations with reference to highways. R.S.O. 1937, c. 170, s. 88.

Powers of county or district judge to make order.

90. The council of any municipality may apply to a judge of the county or district court of the county or district in which are situate the whole, or any part not being less than one-half, of the lands included in any plan, and the judge shall have power to make orders and directions,

- (a) for the hearing of the application upon such notice as the judge directs;
- (b) to cancel or suspend in whole or in part any registered plan;
- (c) to close, divert or alter any or all highways, roads, streets or lanes shown on any such plan, either temporarily or permanently, or pending the suspension of the plan;
- (d) to provide that the lands or any part or parts thereof shown on any such plan shall thereafter, or pending such suspension or until further order of the judge, be known and described by the original township

or other registration numbers or designations used prior to the registration of any such plan, or such other numbers or descriptions as to the judge may seem convenient;

- (e) to impose such terms and conditions as to the judge may seem proper;
- (f) to fix and determine the fees and charges to be imposed and collected by registrars for all and any services under this section, and by whom the same shall be payable;
- (g) to reinstate in whole or in part any plan suspended as aforesaid,

and the judge shall have power to make such further or other order, direction or disposition as he, in his discretion, may deem proper. R.S.O. 1937, c. 170, s. 89.

91. In sales of land under surveys or subdivisions made before the 4th day of March, 1868, where such surveys or subdivisions so differ from the manner in which the land was surveyed or granted by the Crown that the parcel so sold cannot be easily identified unless the plan is registered, the plan shall be registered if still in existence and procurable for registration, and if it is not a new plan shall be made by and at the joint expense of the persons who have made such surveys or subdivisions, and of all others interested therein, by an Ontario land surveyor, as nearly as may be according to the proper original survey or subdivision, and the new plan when so made, shall be registered as if under section 84. R.S.O. 1937, c. 170, s. 90.

When plan must be registered in case of lands subdivided before 4th March, 1868.

92.—(1) Where a city, town, village, or territory forming part of a township comprises different parcels of land and the same were not jointly surveyed and one entire plan of such survey made and registered, the council of the city, town, village or township, upon the written request of the Inspector, shall immediately cause a plan of the city, town, village or part of a township to be made in accordance with this Act and to be registered in the registry office of the registry division within which the municipality lies.

Registration of plans of cities, towns, etc.

(2) The plan shall have endorsed thereon the certificates of the clerk and head of the municipality and the surveyor that it is prepared according to the directions of the municipality and in accordance with this Act, and the corporate seal of the municipality shall be attached to the plan.

Authentication of plan.

(3) Where such territory is situate in two or more townships the Inspector may, by a written order, cause the plan to be made and registered, and where the territory is situate in two or more registry divisions a duplicate of the plan shall be

Registration of plan of territory situate in more than one township.

registered in each of such registry divisions. R.S.O. 1937, c. 170, s. 91 (1-3).

Certificate of
surveyor to
be endorsed
on plan.

(4) The plan shall have endorsed thereon the certificate of the surveyor that it has been prepared according to the order of the Inspector, and the order or a copy thereof shall be attached to or endorsed on the plan. R.S.O. 1937, c. 170, s. 91 (4), *amended*.

Expenses
where terri-
tory within
one town-
ship.

(5) The expense of the preparation and registration of a plan of territory, the inhabitants of which are not incorporated, situate wholly within one township may be paid wholly or in part by the municipality out of its general funds, or the expense may wholly or in part, at the option of the municipality, be paid by a special rate to be levied by assessment on all rateable property comprised in such territory described by metes and bounds in a by-law to be passed for the purpose of levying such rate.

Expenses of
registering
plan of such
territory in
two or more
townships.

(6) The expense of the preparation and registration of a plan of territory, the inhabitants of which are not incorporated, situate in two or more townships shall be paid out of the general funds of the municipalities in which the territory is situate, in such proportions as the Inspector may order, and any municipality may levy its proportion of the expense, or so much thereof as the council sees fit, by assessment on all rateable property comprised in the part of the territory situate in the municipality as described by metes and bounds in a by-law to be passed for the purpose of levying such rate.

Rights of
surveyor.

(7) Upon the production to the registrar of a certificate signed by the head of the municipal council concerned certifying that a surveyor has been employed by the council to prepare a plan for registration under this section, the surveyor named in the certificate shall be entitled, within six months from the date thereof, to make personal searches of the books, plans and instruments in the registry office for the purpose of enabling him to prepare the plan on payment of the ordinary fees payable for searches and productions up to an aggregate amount not exceeding \$25, and for all further searches and productions in excess of \$25 on payment of one-half of the ordinary fees.

Payment of
expenses.

(8) Except as otherwise provided in this section the expense of the preparation and registration of the plan shall be paid out of the general funds of the municipality.

Penalty on
municipal-
ity
defaulting.

(9) In case of the neglect or refusal of a municipality to comply with all the requirements of this section within six months next after being required so to do, the municipality shall be guilty of an offence and on summary conviction shall

be liable to a like penalty to that provided by subsection 12 of section 84.

(10) Where land in a township has been or is sold under surveys or subdivisions made in a manner which so differs from that in which the land was surveyed or granted by the Crown that the parcel sold cannot be easily identified, and the plan has not been registered under this or any other Act, the council of the township may, upon the written request of the Inspector or of any person interested, cause a plan of the land to be made and registered in the same manner and with the same effect as in the case of territory the inhabitants of which are not incorporated, and the expenses of the preparation and registration of the plan shall be paid by a special rate to be levied by assessment on the land comprised in the plan as described in a by-law to be passed for the purpose of levying such rate.

Registration of plans of township subdivisions in certain cases.

(11) A plan prepared under subsection 1 or 10 shall show such subdivisions of original lots as are shown by the registered plans, and such as are not so shown but appear from the instruments relating to the land, with each of the lots as shown on the new plan numbered or lettered in such a manner that they may be readily identified, and the plan shall be prepared without adding to the costs thereof the expense of any actual survey on the ground except such as may be necessary to connect the subdivisions or parcels of land and to show any natural or artificial boundaries of the same which cannot be shown on the new plan from the information contained in the registered plans and instruments.

Plans of municipalities, what to be shown on.

(12) Nothing in this section shall relieve any person from any liability, duty, obligation or penalty provided or imposed by or under any of the provisions of this Act.

Obligations not impaired.

(13) Where any land has been sold or conveyed in lots or parcels by metes and bounds, or in any other manner without a plan having been registered under this or any other Act showing such subdivisions, or where parts of lots shown by a registered plan have been sold or conveyed, and the lots or parcels so sold or conveyed are not distinguished by numbers or letters, a judge of the county or district court of the county or district in which the land is situate, on the application of the Inspector, after such notice as the judge may deem reasonable, may make an order directing the registrar to have the same, or any part thereof, laid out into lots or parcels in such manner and numbered as the judge thinks fit, and a plan or plans thereof to be made in accordance with the records in the registry office, or from actual survey, as may be found necessary, and registered in accordance with the provisions of this Act, and the order of the judge shall be endorsed on or attached to the plan and signed by him.

Power of county judge to order plans to be filed.

Costs.

(14) The costs and expenses of and incidental to the application and the plan and the registration thereof shall be borne by the person or municipality to be named by the judge in the order and where the costs and expenses are directed to be borne by the municipality, the judge may by his order direct repayment of them to the municipality by the levy of a special rate by assessment on all the lots included in the plan.

Effect of filing order.

(15) On filing the order with the clerk the order may be enforced as if it were a judgment of the court.

Effect of registration.

(16) The registration of the plan shall be binding on all persons subsequently dealing with the land or any part thereof included in the plan or any interest in or concerning the same, but shall not affect the rights or interests of any owner or other person entitled at or before the date of registration. R.S.O. 1937, c. 170, s. 91 (5-16).

Contribution by Crown to cost of plan under subs. 13.

(17) Where land is proposed to be subdivided by plan under subsection 13, the Inspector may cause the Attorney-General to be notified of the application, and the Attorney-General, on behalf of the Crown, may either submit that the Crown shall pay or contribute such part of the costs and expenses mentioned in subsection 14 as the judge may determine to be reasonable, or the Attorney-General may consent, on behalf of the Crown, that the Crown shall pay and contribute a definite part of such costs and expenses, and in either of such cases the judge may direct by what person or municipality the remainder of such costs and expenses shall be borne, and any such order may be entered and filed and may be enforced as against such person or municipality in the same manner as the order provided for in subsection 14. 1950, c. 69, s. 2.

Deposit of duplicate plan and field notes, and delivery of duplicate to municipality.

93.—(1) Every person who is required to register a plan shall, with the plan, deposit with the registrar a duplicate thereof and a copy of the surveyor's field notes, if any, certified to be such by the surveyor who prepared the plan, and the registrar shall endorse on the duplicate a certificate showing the number of the plan and the date when the plan was registered, and the duplicate shall, without fee, be delivered by the registrar to the clerk, treasurer or assessment commissioner of the local municipality in which the land is situate.

Duty of registrar.

(2) The registrar shall not register any such plan unless a duplicate thereof and a certified copy of the surveyor's field notes, if any, are deposited in accordance with this section. R.S.O. 1937, c. 170, s. 92.

Designation of subdivision plan areas.

94.—(1) The Inspector may by direction designate an area as a subdivision plan area and thereafter no instrument by way of a deed on a sale of land in the area shall be registered,

- (a) unless the land is described in accordance with and is within a registered plan of subdivision, but the Inspector may in his direction designate land which although within a registered plan of subdivision shall be deemed not to be within a registered plan of subdivision for the purposes of this subsection; or
- (b) unless the land conveyed is more than 10 acres in area; or
- (c) unless the land conveyed is the whole part remaining to the person of one parcel described in a registered conveyance to him.

(2) The direction shall be registered against the abstract indexes of all the land affected thereby. Registration of direction.

(3) A direction under this section, although registered, may be altered or withdrawn by direction of the Inspector and such direction shall be registered against the abstract indexes of the lands affected thereby. 1950, c. 69, s. 3. Alteration and withdrawal of direction.

RE-REGISTRATION WHERE REGISTRY BOOKS LOST, ETC.

95. Where the registry books and papers were, before the 4th day of March, 1868, lost or destroyed, and a memorial cannot be produced, upon proof being made to that effect before a judge of any court of record to his satisfaction as evidenced by a certificate under his hand, the registrar may re-register an instrument upon production thereof, and no further proof shall be required than the original certificate of registration endorsed on the instrument and the instrument shall have priority according to the date of the original certificate and shall be preserved by the registrar with the records of his office. R.S.O. 1937, c. 170, s. 93. Re-registration in case registry books or papers are lost or destroyed.

96. Where memorials have not been copied into the registry books in their proper order the Inspector may cause them to be entered in proper books to be procured for the purpose, in the manner provided by section 21, and the registrar shall be paid therefor in the same manner as under clause 1 of section 97. R.S.O. 1937, c. 170, s. 94. Inspector may order copying of memorials.

(NOTE.—As to list of Crown grants being furnished to registrar, see *The Public Lands Act*, Rev. Stat. c. 309, s. 28, and as to proceedings where land patented is in territory under *The Land Titles Act*, see that Act, Rev. Stat. c. 197, s. 160.)

FEES OF REGISTRARS

97. Except where otherwise provided, a registrar shall be entitled to the following fees: Fees:

Generally.

- (a) For the necessary entries and certificates in registering every instrument, other than those hereinafter specially provided for, including among such certificates the certificate on the duplicate, if any, 50 cents. R.S.O. 1937, c. 170, s. 95, cl. (a); 1947, c. 95, s. 3 (1).

Registering
and copying.

- (b) For registering every such instrument, \$3;

If the instrument exceeds 700 words, at the rate of 15 cents for each additional 100 words or fractional part thereof up to 1,400 words, and at the rate of 10 cents for each additional 100 words or fractional part thereof over 1,400 words;

If the instrument embraces lots or parcels of land situate in different municipalities in the same registry division, the registration and copying of the instrument, together with all necessary entries and certificates in connection therewith, shall be considered separate and distinct registrations for each municipality in which the land is situate, and shall be paid for as follows:

Where the aggregate copying does not exceed 700 words, \$3; where it exceeds 700 words, 15 cents for every 100 words or fractional part thereof up to 1,400 words, in addition to the sum of \$3;

Where it exceeds 1,400 words, the sum of 10 cents for every 100 words or fractional part thereof in addition to the above charges; the fees shall include all certificates and necessary entries, but if the instrument embraces more than 4 different lots or parcels of land in the same municipality, the registrar shall be allowed a fee of 5 cents for entering each lot or parcel in excess of 4. R.S.O. 1937, c. 170, s. 95, cl. (b); 1947, c. 95, s. 3 (2); 1950, c. 69, s. 4.

Searches
as to title.

- (c) For searching the registry books and indexes relating to the title of any lot or part of a lot as originally surveyed or patented by the Crown, or as afterwards subdivided into smaller lots, shown by any registered plan thereof, when not exceeding 4 references, 25 cents and 5 cents for every additional reference up to 50 references and 5 cents for every additional 2 references over 50;

In no case shall a general search into the title to any particular lot, piece or parcel of land exceed the sum of \$3;

In this clause, "reference" means a search of a copy of an instrument in the register, and if the abstract indexes only are examined, the total fee for searching any such lot or part of a lot, including 4 references, shall be 25 cents;

"Lot" means one parcel of land as originally patented by the Crown and where the parcel has been subdivided includes any one of the lots in any such subdivision or re-subdivision, a plan of which has been registered;

No person shall make copies of or extracts from any instrument, document, book, paper or record in the registry office, or of any matter contained therein, to an extent in the aggregate exceeding 300 words for any one lot or part of a lot, except on payment, in addition to the fees for search, of 5 cents for each 100 words or fraction thereof in excess of 300 words;

Where subsequent to the registration of a mortgage the land in the mortgage has been subdivided by plan and searches are made for the purpose of ascertaining subsequent grantees or encumbrances in sale, foreclosure or other proceedings under the mortgage, the person searching, on producing a statutory declaration that the searches are being made for that purpose, shall be entitled to make such searches on all the lots in the subdivision on payment of a fee of 10 cents for each lot, but so that the whole fee for searches shall not exceed \$2.

- (d) For searching, if specially required, the alphabetical index of names referred to in section 30 as to each name in the books of any one township, or other municipality in the registry division, 25 cents; but if a general search as to any such name is made throughout the registry division, the aggregate of fees for the search shall not exceed \$1. Searching alphabetical index.
- (e) For searching, if specially required, the general registry book for the whole registry division, referred to in section 21, as to each name, the sum of 25 cents. Searching general registry book.
R.S.O. 1937, c. 170, s. 95, cls. (c - l).
- (f) For an abstract title to any specific parcel of land containing such particulars as to any number of registered instruments affecting the parcel as the applicant may require, Abstracts of title.
 - (i) 50 cents for a search of one lot,
 - (ii) for each instrument up to 50 which requires inspection, 10 cents,

- (iii) for each instrument in excess of 50 which requires inspection, 5 cents,
- (iv) when the abstract exceeds 100 words, 20 cents for each additional 100 words or part thereof, and
- (v) for copies of instruments when required, 15 cents for each 100 words or part thereof;

The minimum fee for an abstract of title, including the fee for search and certificate, shall be \$2;

Where there are two or more lots for which abstracts are required and the entries on the lots are identical, the registrar shall not be entitled to make an abstract for each lot separately, but the abstracts of title of the lots shall be included in one abstract, and the fees therefor shall be the same as if the abstract applied to one lot only, except that the registrar shall be entitled in addition thereto to a fee of 50 cents for a search on each lot after the first lot and for the first lot he shall be entitled to the same fees as are payable in respect of one lot;

Where there are two or more lots for which abstracts are required and the entries on the lots are partly identical, the registrar shall make a full abstract for one of the lots and enter therein all the lots to which each instrument refers, and in the abstract of the other lots he shall only include entries affecting those lots separately. 1947, c. 95, s. 3 (3).

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|---|--|
| Certificates. | (g) For each certificate furnished by the registrar, except a certificate under clause <i>a</i> or <i>b</i> , 50 cents. |
| Registering plan. | (h) For registration of any plan of city, town or village lots, including all necessary entries connected therewith, \$5; but if the plan embraces more than 20 lots, the registrar shall be allowed a fee of 5 cents for each lot in excess of 20 up to 100 lots, and a fee of 2 cents for each lot in excess of 100. |
| Registering money by-law. | (i) For registering each duplicate original or certified copy of a money by-law, \$2. |
| Searches, etc. | (j) For making search for the same or inspection and examination of entries connected therewith, 50 cents. |
| Searches in connection with registering a plan. | (k) For searches as to the names of registered owners and as to the mortgagees under subsection 16 of section 84 in connection with the registration of a plan, the sum of \$1, but if the search embraces more than |

20 lots, a fee of 5 cents for each lot in excess of 20 up to 100 lots, and a fee of 2 cents for each lot in excess of 100.

- (l) For furnishing the copies required under sections 24 and 26, 10 cents for each 100 words or fraction thereof. Statement under sections 24 and 26.
- (m) For repairing any book, or copying, mounting or binding plans, or for new plans and surveys, or for new abstract indexes, such sums as the Inspector may order in writing, specifying the nature of the service. Repairing books, etc.
- (n) For drawing each affidavit and swearing the deponent thereto, 25 cents, and the same fee for administering the oath when that only is required. Affidavits.
- (o) For exhibiting in the office each original registered instrument, including search therefor, 10 cents, and for producing each original registered instrument, including search therefor, in pursuance of a judge's order or subpoena, the sum of 10 cents in addition to the registrar's ordinary witness fees. Showing originals.
- (p) For registering a certificate of discharge of mortgage, including a certificate under section 71, \$1.50, and every other certificate excepting certificates provided for in clause q, including all entries and certificates thereof, \$1; if the certificate affects more than 4 lots or parcels, a fee of 5 cents for each lot or parcel in excess of 4; if the certificate affects 2 or more lots or parcels in the same registry division, or if the certificate or aggregate copying thereof exceeds 300 words, 10 cents for each additional 100 words or fractional part thereof, not to exceed \$5 in the whole in any case for the registration of the certificate. Certificates of discharge of mortgage.
- (q) For registering certificate of payment of taxes, 25 cents. On payment of taxes.
- (r) For registering certificate of amalgamation of loan corporations, together with a certified copy of any document mentioned in the certificate, \$4. Amalgamation of loan companies.
- (s) For registering letters of administration, \$1.50. Administration.
- (t) For registering notice of sale of land under power in mortgage, 50 cents. Notices of sale.

Affidavit for
general
register.

- (u) For registering a declaration for registering instrument entered in general register, 50 cents. R.S.O. 1937, c. 170, s. 95, cls. (g-u).

Alterations
in registrars'
fees.

98. The Lieutenant-Governor in Council may from time to time amend, repeal or add to any of the clauses or items in section 97. R.S.O. 1937, c. 170, s. 96; 1946, c. 89, s. 38 (1).

Fees in cases
not provided
for.

99. Where an Act of Ontario or of Canada requires or permits an instrument, document or plan to be deposited, filed or registered in a registry office or requires a registrar to perform any other duty, but omits to provide fees to the registrar for his services in connection therewith, and no fees therefor are provided by this or any other Act, the registrar, in the absence of any express provision requiring him to perform such services gratuitously, shall be entitled to such reasonable fees therefor as the Inspector shall fix to be paid by the person requiring the service to be performed. R.S.O. 1937, c. 170, s. 97.

Figures.

100. In abstracts and certificates where figures are used instead of words to denote dates, numbers and quantities, the same shall be charged for as if each number, though composed of several figures, were but one word. R.S.O. 1937, c. 170, s. 98.

Inspection of
books in
registry
offices by
master or
local master
of titles.
Rev. Stat.
c. 197.

101. Subject to any general rules made under *The Land Titles Act*, a master or local master of titles may, by himself or by his clerks, without payment of fees, inspect all books and papers in a registry office for his own information as such master, but this provision shall not apply to an application in which an abstract of title obtained for the purpose of such application has not been filed. R.S.O. 1937, c. 170, s. 99.

Disputes as
to fees.

102.—(1) Where a dispute arises in regard to any question of fees under this Act the registrar shall forthwith submit the dispute to the Inspector, and shall thereupon notify the person interested or his agent of such submission, and the decision of the Inspector upon the question submitted shall be final, unless appealed from and varied upon appeal as hereinafter mentioned.

Inspector's
decisions.

(2) All decisions given by the Inspector shall be in writing, and the appeal therefrom shall be in like manner, and subject to the same rules of practice as nearly as may be as an appeal from a local master. R.S.O. 1937, c. 170, s. 100.

Appeals.

Table of fees
to be posted
in registrar's
office.

103.—(1) Every registrar shall keep posted up in some conspicuous place in his office a printed schedule of the fees and charges authorized under this Act.

(2) Every registrar shall, upon request of the person for whom the service is performed, furnish a statement in detail of the fees charged by him in respect of any matter for which fees are payable under this Act. R.S.O. 1937, c. 170, s. 101.

Registrar to give statement of fees payable in any matter.

104. If the treasurer of a county or of a city in which a separate registry office is established refuses or neglects to pay the fees and allowances for any services required by this Act and performed by him which the registrar has requested and which the treasurer ought to pay, the registrar may sue for and recover the same from the corporation of the county or city, as the case may be, in any court of competent jurisdiction, and the Inspector's certificate of the amount and of the services rendered shall be *prima facie* evidence of the right to recover. R.S.O. 1937, c. 170, s. 102.

Recovery of fees from municipal corporations.

105.—(1) Every registrar shall keep a separate book in which he shall enter from day to day all fees and emoluments received by him, showing separately the sums received for registering each instrument, and for searches and for extracts or copies.

Registrars to keep accounts of fees.

(2) Every registrar shall annually, on or before the 15th day of January, make to the Lieutenant-Governor a return up to and including the 31st day of December of the next preceding year which shall show,

Registrar's annual returns.

- (a) the number of instruments registered and the fees therefor;
- (b) the number uncopied and uncomparred;
- (c) the number of patents registered and fees therefor;
- (d) the number of deeds registered and fees therefor;
- (e) the number of mortgages registered and fees therefor;
- (f) the number of discharges of mortgages registered and fees therefor;
- (g) the number of wills registered and fees therefor;
- (h) the number of leases registered and fees therefor;
- (i) the number of abstracts and fees therefor;
- (j) the number of searches and fees therefor;
- (k) the number of mechanics' liens and fees therefor;
- (l) the number of all other instruments registered or deposited and fees therefor;
- (m) the amount received for work done for which the county, city or other municipality is liable;

- (n) the amount received for other services not enumerated above;
- (o) the gross amount of fees earned for the year;
- (p) the gross amount earned for the previous year;
- (q) the amount paid to the deputy registrar for services and the amount of other charges in connection with the office paid by the registrar;
- (r) the amount of surplus paid to the county or city for the year and when paid;
- (s) the amount of such surplus for the previous year;
- (t) the net amount received by registrar.

Other information.

(3) The return shall also contain such other information as may be prescribed by the Lieutenant-Governor in Council.

Return to be transmitted to Inspector.

(4) The return shall be transmitted to the Inspector. R.S.O. 1937, c. 170, s. 103.

Registrar to furnish municipality with list of conveyances.

106.—(1) The registrar, upon the request of the council of a municipality, shall furnish a list of all conveyances whereby land in the municipality has been transferred, mortgaged or leased, which have been registered in his office during the next preceding year or any part thereof, and the list shall include in respect of each conveyance, the names and addresses of the parties, the consideration and a short description of the land.

Fees.

(2) The registrar shall be entitled to a fee of 10 cents for every conveyance entered in the list. 1948, c. 87, s. 11.

Registrar's emoluments.

107.—(1) Every registrar shall be entitled to retain to his own use in each year his net income up to \$4,000.

Where net income exceeds \$4,000. Rev. Stat., c. 197.

(2) Subject to section 111 of this Act and to section 152 of *The Land Titles Act*, every registrar shall, of the net income of each year over \$4,000, pay to the treasurer of the county or city for which or for part of which he is registrar, the following percentages:

- (a) On the excess over \$4,000 up to \$6,000, 50 per cent.
- (b) On the excess over \$6,000, 90 per cent. 1950, c. 69, s. 5 (1).

Lieutenant-Governor may fix remuneration.

(3) Notwithstanding the provisions of this section, the Lieutenant-Governor in Council may fix the remuneration to be paid to any registrar. R.S.O. 1937, c. 170, s. 105 (3).

108. Where it appears by return to the Lieutenant-Governor or to any department of the Government that in any year a registrar of deeds or an officer holding the office of registrar of deeds and local master of titles has derived from the fees, emoluments and salary, if any, of his office, after deducting necessary disbursements, an income which is less than \$1,800, there may be paid on the report of the Inspector to such registrar or officer, out of the Consolidated Revenue Fund, an amount sufficient to make up the income for the year to \$1,800, if the Lieutenant-Governor in Council so directs. R.S.O. 1937, c. 170, s. 106.

Additional grant in certain cases.

109. For the purposes of this Act, "net income" means the excess of all fees and emoluments earned during the calendar year after deducting the disbursements incident to the business of the office. R.S.O. 1937, c. 170, s. 107.

Interpretation.

110. The deduction from the gross income for the expenses connected with the work of, or in conducting the business of the offices of the registrars shall not be increased beyond the amount paid therefor in the year 1917, without the consent in writing of the Inspector. R.S.O. 1937, c. 170, s. 108.

Deduction for expenses not to be increased without consent of Inspector.

111.—(1) On the 15th day of January in each year every registrar shall transmit to the treasurer of the county or city for which, or for part of which, he is registrar a duplicate of the return required by section 105, and shall also pay to such treasurer for the use of the municipality the percentages required by this Act to be paid by him.

Payment of surplus fees.

(2) Where a registry division includes a county or part of a county and a city or town separated from the county for municipal purposes, the percentages shall be paid to the treasurer of the county and to the treasurer of the city or town for the use of the municipality in the proportions in which the gross fees and emoluments are derived from extracts, searches, registrations, and other charges in respect of land situate in the county, and in the city or town respectively. R.S.O. 1937, c. 170, s. 109.

How computed in certain cases.

112. Every registrar shall, on or before the 7th day of January in each year, transmit to the head of any municipality to which he has made payments in accordance with the provisions of this Act during the next preceding year a statement signed by him showing the amounts so paid and the dates of payment, and the head of the municipality receiving the statement shall cause it to be laid before the auditors when auditing the accounts of that year, and shall also read it at the first meeting of the council held after its receipt. R.S.O. 1937, c. 170, s. 110.

Registrars to send statement of amounts paid to head of municipality.

Return as to fees where registrar dies or vacates office.

113.—(1) In the case of the death, resignation or removal from office of a registrar, a like return as that mentioned in section 105 shall be made by such registrar or his legal representative, for the portion of year during which he held office, and in all cases where, during the year the office has been in charge of more than one person, a like return shall be made by each such person for the portion of the year he had charge of the office.

Allowances and percentages, how computed.

(2) The allowances and percentages in section 107 are upon a yearly basis and shall be made and computed upon the net income of the office for the whole of the calendar year, and this whether or not the office was held by one person or more than one person during the said year. R.S.O. 1937, c. 170, s. 111 (1, 2).

When office held by more than one person during year.

(3) Where more than one person has held the office in any calendar year, each of such persons shall pay an aliquot part of the percentage payable for the year, based upon the portion of the year during which he was in office. R.S.O. 1937, c. 170, s. 111 (3); 1942, c. 34, s. 34 (1).

Application of s. 111, subs. 2.

(4) Subsection 2 of section 111 shall apply to the proportion of fees mentioned in this section. R.S.O. 1937, c. 170, s. 111 (4).

Certain fees not to be included in payments to municipalities.

114. In ascertaining the percentages payable under this Act there shall not be included in the fees and emoluments any sum receivable from a municipality for the preparation of abstract indexes, or for work done under section 24 or 26, or subsection 5 of section 86 or section 106, nor shall anything in this Act apply to the fees or emoluments received on account of services as returning officer under *The Election Act* or *The Dominion Elections Act* (Canada). R.S.O. 1937, c. 170, s. 112.

Rev. Stat., c. 112, 1938, c. 46 (Can.).

Inspection of registry books by municipal officers.

115. The council of every county, city or separated town may by by-law authorize the warden, mayor or treasurer to inspect the books of office kept in any registry division in the county or city, for the purpose of testing the accuracy of the returns or computations of fees received by the registrar to a share or percentage of which the county, city or town is or may become entitled, and the registrar shall at all convenient times allow such books to be inspected for that purpose free of charge. R.S.O. 1937, c. 170, s. 113.

Percentages in districts to be payable to Province.

116.—(1) Section 107 shall apply to the registrars in the provisional judicial districts, but the percentages therein provided for shall, in their case, be payable to the Treasurer of Ontario, and when the registrar is also local master of titles, the income upon which the percentages are to be computed shall be that received from the combined offices.

(2) Subsection 1 shall not apply to any registrar who is paid by salary. R.S.O. 1937, c. 170, s. 114. Exception.

117. The amount to be allowed for the disbursements of a registrar shall be subject to the revision and determination of the Inspector. R.S.O. 1937, c. 170, s. 115. Disbursements subject to revision of Inspector.

118. The Lieutenant-Governor in Council may make rules for the management of registry offices, and may, by such rules, confer on the Inspector such powers as may be deemed necessary for carrying out the provisions of this Act and all other Acts relating to the duties of registrars. R.S.O. 1937, c. 170, s. 116 (1). Lieutenant-Governor may make rules.

INSPECTOR

119. The Inspector shall,

Duties of Inspector,

- (a) make as often as practicable a personal inspection of the building in which each registry office is kept, and of the books, deeds, memorials and other instruments in each office; inspection of building;
- (b) see that the proper books are provided, that they are in good order and condition, that the proper entries and registrations are made therein in a proper manner and in a due and proper form and order, that the indexes are properly kept, and that all the memorials and other instruments are duly endorsed, certified and preserved; books, etc.;
- (c) ascertain that the office is kept open at and for the proper times, and that it is at all times duly attended by the registrar or his deputy; office hours;
- (d) settle on some uniform device for the official seals, and see that the registrars supply themselves therewith; seals of officials;
- (e) inspect all new abstract and alphabetical indexes, and settle and certify the sums, if any, chargeable therefor; new indexes
- (f) ascertain whether the proper plans required by this Act have been registered, and, where necessary, enforce the provisions of this Act as to the preparation and registration thereof, and instruct the Crown attorney to take proceedings for that purpose; plans;
- (g) report upon any vacancies by death or otherwise in the office of registrar or deputy registrar; reporting vacancies;
- (h) inform the registrar how and in what manner he shall do any particular act or amend or correct whatever the Inspector may find amiss, and if he finds the instruction of registrar;

- work improperly performed, order a new book or books to be prepared and completed by the registrar at his own expense;
- securities; (i) ascertain the sufficiency of the security furnished by the registrar;
- report to Lieutenant-Governor; (j) report upon all such matters to the Lieutenant-Governor for his information and decision; and
- other duties. (k) perform such other duties as the Lieutenant-Governor in Council may prescribe. R.S.O. 1937, c. 170, s. 117.

Evidence on investigations by Inspector.

120. Where the Inspector in the performance of his duties under this Act has occasion to make an inquiry or to determine any matter he may require any person to give evidence on oath, and for that purpose may summon the person to attend as a witness, may enforce his attendance, may compel him to produce books, documents and things, and to give evidence in like manner as the Supreme Court may in civil cases. R.S.O. 1937, c. 170, s. 118.

Registrars to furnish information to Inspector.

121. Every registrar shall transmit to the Inspector such particulars with reference to the business of his office as the Inspector may require. R.S.O. 1937, c. 170, s. 119.

Duty of Inspector on finding work in arrear.

122. Where it appears to the Inspector that the work of a registry office is unduly in arrear he may employ such persons as he deems necessary to perform the work in arrear, and the cost thereof shall be payable by the registrar to the persons entitled on the certificate of the Inspector. R.S.O. 1937, c. 170, s. 120.

PENALTY FOR ALTERING BOOKS OR DOCUMENTS

Penalty for unauthorized alteration of entry.

123. Any person, except the registrar or other officer when entitled by law so to do, who alters any book, record, plan or registered instrument in any registry office, or makes any memorandum, word or figure in writing thereon, whether in pencil or in ink, or by any other means, or in any way adds to or takes from the contents of such book, record, plan or registered instrument, and any person who removes or attempts to remove any instrument registered or deposited in a registry office from such office without lawful authority, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$100. R.S.O. 1937, c. 170, s. 121.

SPECIAL PROVISION RELATING TO TORONTO

City to provide accommodation, etc.

124. The corporation of the City of Toronto shall provide such accommodation as may be required in accordance with

the provisions of this Act or any regulations made thereunder, for the registry office of the Registry Division of Toronto. R.S.O. 1937, c. 170, s. 122.

125.—(1) The registrar, deputy registrars, clerks, officers and employees employed in the registry office for the Registry Division of Toronto shall be paid out of the receipts of the office, such salaries as may be approved by the Lieutenant-Governor in Council, and subject to the regulations the fees prescribed by this Act shall be collected and accounted for by such persons and in such manner as the Inspector may direct. Salaries.

(2) If at any time the receipts of the office are not sufficient to pay the salaries and retiring allowances of the registrar and the members of his staff the same shall be a charge upon and be payable out of the receipts of the corporation under *The Mortgage Tax Act*. R.S.O. 1937, c. 170, s. 23. Application of mortgage tax to meet expenses of office.
Rev. Stat., c. 240.

126. The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) respecting the registers, plans, instruments and other books, documents and records to be kept in the registry office for the Registry Division of Toronto;
- (b) prescribing the furnishing, equipment and accommodation to be provided in the said registry office;
- (c) for the organization of the office and the appointment of deputies, officers, clerks and employees and prescribing their respective duties;
- (d) prescribing the method in which fees and other receipts of the office shall be collected, kept and accounted for;
- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 170, s. 124.

FORM 1

(Section 11)

REGISTRAR'S OATH OF OFFICE

County (or District) of } I (name and describe the deponent), having been appointed
To Wit: } to the office of Registrar, in and for the (name of Registry Division, etc.), do swear that I will well, truly and faithfully perform and execute all the duties required of me under the laws of Ontario pertaining to the said office so long as I continue therein, and that I have not given directly or indirectly, nor authorized any person to give, any money gratuity or reward whatsoever for procuring the said office for me.

Sworn before me, etc.

A Commissioner, etc.

A. B.

R.S.O. 1937, c. 170, Form 1.

FORM 2

(Section 23)

CERTIFICATE RESPECTING REGISTRY BOOKS

This register contains.....pages, exclusive of index, and is to be used for the City (or Town, Village or Township) of....., in the County (or District) of..... for the recording of deeds, duplicates, and other instruments under the provisions of *The Registry Act*, and is provided in pursuance of the said Act.

Dated this.....day of....., 19.....

R.S.O. 1937, c. 170, Form 2.

FORM 3

(Section 29 (1))

ABSTRACT INDEX

Township of....., Lot No.....in the.....Concession.

1	2	3	4	5	6	7	8	9
No. of Instrument.	In-stru-ment.	Its Date.	Date of Regis-try.	Grantor.	Grantee.	Quan-tity of Land.	Consid-eration in con-veyance or amount of mort-gage money.	Re-marks.

NOTE.—The names of all the grantors and grantees should appear in the abstract index.

R.S.O. 1937, c. 170, Form 3.

FORM 4

(Section 30)

ALPHABETICAL INDEX

No. of Instrument.	GRANTOR.	GRANTEE.	No. of Instrument.	GRANTEE.	GRANTOR.

R.S.O. 1937, c. 170, Form 4.

FORM 5

(Section 34 (1))

AFFIDAVIT OF EXECUTION

County (or District) of } I, (name, residence and occupation), make
To Wit: } oath and say:

1. That I was personally present and did see the annexed (or within) instrument (and a duplicate, *if any, according to the fact*) duly signed, sealed and executed by.....
part.....thereto.

2. That the said instrument (and duplicate, *if any, according to the fact*) was (or were) executed by the said part.....at the.....
of.....

3. That I know the said part.....

4. That I am a subscribing witness to the said instrument (and duplicate, *if any, according to the fact*).
Sworn, etc.

R.S.O. 1937, c. 170, Form 5.

FORM 6

AFFIDAVIT OF EXECUTION WHERE THE INSTRUMENT IS A SECURITY UNDER
SECTION 35

County (or District) of } I, (name, residence and occupation), make
To Wit: } oath and say:

1. That I was personally present and did see the annexed (or within) instrument (and a duplicate, *if any, according to the fact*), duly signed, sealed and executed by.....
part.....thereto.

2. That the said instrument was read over in my presence and explained to the said....., and that he appeared perfectly to understand the same, and was informed that it might be registered as an encumbrance on his land.

3. That the said instrument (and duplicate, *if any, according to the fact*), was (or were) executed by the said part.....at the.....
of.....

4. That I know the said part.....

5. That I am a subscribing witness to the said instrument (and duplicate, *if any, according to the fact*).
Sworn, etc.

A. B.

R.S.O. 1937, c. 170, Form 6.

FORM 7

(Sections 40, 49 (1))

CERTIFICATE OF THE JUDGE OF THE COUNTY OR DISTRICT COURT IN LIEU
OF AFFIDAVIT OF EXECUTION

County (or District) of } I,
 To Wit: } Judge of the County (or District) Court
 of the County (or District) of
 certify that, from the proof adduced by (name
of the person producing the proof), I am satisfied of the due execution of the
 within instrument (or of the instrument whereof the within is a copy,
 memorial or duplicate, as the case may be).

As witness my hand at the
 day of, 19.....

A. B.,
 Judge.

R.S.O. 1937, c. 170, Form 7.

FORM 8

(Sections 50, 53 (1), 63 (3))

CERTIFICATE OF REGISTRATION

I certify that the within instrument is duly
 entered and registered in the Registry Office for the Registry Division
 of in Book for the of
 at o'clock of the day of
 19....., Number.....

Registrar,
 or Deputy Registrar.

R.S.O. 1937, c. 170, Form 8.

FORM 9

(Section 54)

MINUTE OF REGISTRATION

Entered and registered this day of
 19..... at o'clock m.

Registrar (or Deputy Registrar).

R.S.O. 1937, c. 170, Form 9.

FORM 10

(Section 64 (1))

DISCHARGE OF MORTGAGE

To the Registrar of the Registry Division of.....

I,....., of....., do certify that.....has satisfied all money due on, or to grow due on (or has satisfied the sum of \$..... mentioned in), a certain mortgage made by.....of.....to..... which mortgage bears date the.....day of....., 19....., and was registered in the Registry Office for the Registry Division of..... on the.....day of....., 19....., at.....minutes past.....o'clock,.....noon, in Book.....for.....as No..... (here mention the date and the date of registration of each assignment thereof, and the names of the parties, or mention that such mortgage has not been assigned, according to the fact), and that I am the person entitled by law to receive the money, and that such mortgage (or such sum of money as aforesaid, or such part of the land as is herein particularly described, that is to say:.....) is therefore discharged.

Witness my hand this.....day of....., 19.....

A. B.

Witness }

R.S.O. 1937, c. 170, Form 10.

FORM 11

(Section 70 (2))

CERTIFICATE OF DISCHARGE OF MORTGAGE BY SHERIFF, ETC.

To the Registrar of the Registry Division of.....

I, A. B., of....., Sheriff of the County (or District) of the County (or District of.....[or Bailiff of the (number) Division Court of the County (or District of.....] do certify that by virtue of an execution wherein C. D. is plaintiff and E. F. defendant, issued out of the Supreme Court (or as the case may be) and to me directed, I seized a certain mortgage made by one J. H. of (as described in the mortgage) bearing date the.....day of....., 19....., and registered at.....of the clock in the.....noon, of the.....day of..... in Book.....for.....as No.....to E. F., of.....(as described in the mortgage), the defendant in the said execution named, and such mortgage has not been assigned (or has been assigned to the defendant: here set out date and date of registration of assignment) and I do further certify that I have received from the said mortgagor, (or from the executors, administrators, or assigns of the said mortgagor, as the case may be), the full amount of said mortgage (or \$..... part of the mortgage money), and that such mortgage is therefore discharged (or that such mortgage is as to \$.....part of the money thereby payable, discharged).

As witness my hand and seal of office (or the seal of the said Court) this.....day of....., 19.....

A. B.

Witness }

R.S.O. 1937, c. 170, Form 11.

FORM 12

(Section 71)

CERTIFICATE OF DISCHARGE OF INSTRUMENT CREATING A CHARGE

To the Registrar of the Registry Division of.....
 County (or District) of } I, (name, residence and occupation), do
 To Wit: } hereby certify that.....of the
of.....
 in the County (or District) of.....(occupation).....
 has satisfied all money due or to grow due on (or has satisfied the sum of
 \$.....mentioned in) a certain instrument made by.....
 of.....to....., which instrument bears date the.....
 day of....., 19....., and was registered in the Registry Office for
 the Registry Division of.....on the.....day of.....
19....., at.....minutes past.....o'clock.....
noon, in Book.....for....., as No.....
 (here mention the date and the date of registration of each assignment thereof,
 and the names of the parties, or mention that such instrument has not been
 assigned, according to the fact), and that I am the person entitled by law
 to receive the money, and that such instrument (or such sum of money
 as aforesaid, or such part of the land as is herein particularly described,
 that is to say:) is therefore discharged.

Witness my hand this.....day of....., 19.....

A. B.

Witness }

R.S.O. 1937, c. 170, Form 12.

FORM 13

(Section 84 (8))

THE REGISTRY ACT

CERTIFICATE OF AN ONTARIO LAND SURVEYOR

I, (name in full), an Ontario Land Surveyor certify,

1. That I was present at and did personally superintend the survey represented by this plan.
2. That this plan accurately shows the manner in which the lands (edged in red) have been surveyed and subdivided by me.
3. That every angle of the exterior boundary of the plan is defined in the survey thereof by a monument and a monument is placed at one angle of each street intersection shown on the plan.
4. That I have indicated on the plan the position and form of each of the monuments.
5. That the monuments conform in all respects to requirements of section 12 of *The Surveys Act*.
6. That the survey was made by me between the.....day of.....and the.....day of.....
7. That the survey has been accurately made in accordance with all the provisions of *The Surveys Act* and *The Registry Act* relating thereto.

Dated at.....the.....day of....., 19.....

A. B.,
 Ontario Land Surveyor.

1947, c. 95, s. 5.

FORM 14

(Section 88)

AFFIDAVIT WHERE INSTRUMENT DOES NOT CONFORM TO PLAN

County (or District) of } I, (name, residence and occupation), make
To Wit: } oath and say:

1. To the best of my knowledge and belief, the land described in the within (or annexed) instrument is designated on Registered Plan No. as lots (*describe same so as to conform to plan*).

3. That....., a party to said instrument, died on or about the..... day of....., 19....., (*or as the case may be*).....or.....

2. That it is impossible (*or inconvenient*) to obtain a new instrument or a re-execution of the said instrument containing a description conforming to the said plan for the following reasons (*here set out the facts*).

3. That I have a personal knowledge of the matters herein deposed to.

Sworn, etc.

A. B.

R.S.O. 1937, c. 170, Form 14.

FORM 15

DECLARATION UNDER SECTION 33 (2)

County (or District) of } I, (name, residence and occupation), do
To Wit: } solemnly declare that,

1. I am a party (*or as the case may be*) to an instrument affecting land without local description, registered in the Registry Division of..... on the..... day of....., 19....., at..... minutes past..... o'clock..... noon, in Book....., as number.....

2. The said instrument affects the land within the said Registry Division hereinafter described, that is to say (*here give a local description of the lands sufficient for the purposes of registering an instrument in the separate Registry Books under the Act*).

And I make this solemn declaration, etc.

Declared, etc.

A. B.

R.S.O. 1937, c. 170, Form 15.



CHAPTER 337

The Regulations Act

1. In this Act,

Interpretation.

- (a) "file" means file in the manner prescribed in section 2;
- (b) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant-Governor in Council;
- (c) "publish" means publish in the manner prescribed in section 3;
- (d) "Registrar" means Registrar of Regulations;
- (e) "regulation" means any regulation, rule, order or by-law of a legislative nature made or approved under any Act of the Legislature by the Lieutenant-Governor in Council, a minister of the Crown, a department of the public service, an official of the government or a board or commission all the members of which are appointed by the Lieutenant-Governor in Council, but does not include,
 - (i) a by-law of a municipality or local board, as defined in *The Department of Municipal Affairs Act*, Rev. Stat., c. 96.
 - (ii) an order of the Ontario Municipal Board other than an order prescribing rules governing the proceedings before the Board,
 - (iii) an order of the Lieutenant-Governor in Council designating any highway or a system of public highways as the King's Highway, or
 - (iv) a schedule of classifications for civil servants, including qualifications, duties and salaries, prescribed under *The Public Service Act*, 1944, c. 52, s. 1; 1947, c. 102, s. 9 (1); 1948, c. 78, s. 1. Rev. Stat. c. 317.

2.—(1) Every regulation shall be filed in duplicate with the Registrar together with a certificate in duplicate of the making thereof signed by the authority making the regulation or a responsible officer thereof and, where approval is required, with a certificate of approval in duplicate signed by the authority so approving or by a responsible officer thereof, Filing required.

provided that in the case of a regulation made by a minister which does not require approval, no certificate shall be required. 1944, c. 52, s. 2 (1); 1947, c. 102, s. 9 (2).

Copy from
Executive
Council.

(2) Where a regulation is made or approved by the Lieutenant-Governor in Council, the filing with the Registrar of two copies thereof certified to be true copies by the Clerk of the Executive Council shall be deemed to be compliance with subsection 1.

Commence-
ment.

(3) Unless otherwise stated therein a regulation shall come into force and have effect on and after the day upon which it is filed and a regulation shall in no case come into force or have effect before the day of filing.

Failure
to file.

(4) Notwithstanding any other Act, a regulation that is not filed shall have no effect. 1944, c. 52, s. 2 (2 - 4).

Publication.

3.—(1) Every regulation shall, within one month of the filing thereof, be published in *The Ontario Gazette*.

Extension
of time for
publication.

(2) The Minister may at any time, by order, extend the time for publication of a regulation and the order shall be published with the regulation.

Effect of
non-publica-
tion.

(3) A regulation which is not published shall not be valid as against a person who has not had actual notice thereof.

Effect of
publication.

(4) Publication of a regulation shall,

(a) be *prima facie* evidence of the text of the regulation and of the making, approval where required, and filing thereof; and

(b) be deemed to be notice of the contents thereof to every person subject thereto or affected thereby,

and a published regulation shall be judicially noticed. 1944, c. 52, s. 3.

Powers of
Minister.

4. The Minister may,

(a) determine whether any regulation, rule, order or by-law is a regulation within the meaning of this Act and his decision shall be final;

(b) determine who shall be deemed responsible officers within the meaning of section 2; and

(c) determine any matter which may arise in connection with the administration of this Act. 1944, c. 52, s. 4.

Registrar.

5.—(1) There shall be a Registrar of Regulations appointed by the Lieutenant-Governor in Council who shall,

- (a) be responsible for the numbering and indexing of all regulations filed with him and for the publication thereof; and
- (b) exercise such powers and perform such duties as may be vested in or imposed upon him by this Act, the regulations made hereunder, or the Minister. 1944, c. 52, s. 5.

(2) The Registrar may issue a certificate as to the filing of any regulation and every such certificate shall be *prima facie* evidence of the facts stated therein without any proof of appointment or signature. 1947, c. 102, s. 9 (3).

Certificate
of Registrar.

(3) Where a map or plan,

Filing of
maps or
plans.

- (a) forms part of a regulation for the purpose of illustrating a description of land; and
- (b) is identified in the regulation by a number given to it by the Registrar,

and the regulation states that the map or plan is filed in the office of the Registrar, he may in his discretion file the map or plan in his office in numerical order and no publication of the map or plan shall be necessary. 1950, c. 79, s. 18 (1).

6.—(1) Regulations or amendments thereto shall be numbered in the order in which they are filed, and a new series shall be commenced in each calendar year.

Numbering.

(2) Regulations may be cited and referred to by the expression "Ontario Regulations" or "O. Reg." followed by the number thereof, a virgule and the last two figures of the calendar year of the filing thereof. 1944, c. 52, s. 6.

Citation.

7.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations,

Regulations.

- (a) prescribing the powers and duties of the Registrar;
- (b) prescribing the form, arrangement and scheme of regulations;
- (c) prescribing a system of indexing;
- (d) providing for the preparation and publication of a consolidation or codification of regulations which have been filed, and for the preparation and publication of supplements thereto;
- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Consolidation,
codification.

(2) Publication of a regulation in a consolidation or codification or supplement thereto shall be deemed publication within the meaning of this Act. 1944, c. 52, s. 7.

Defects not
corrected.

8. The filing or publication of a regulation under this Act shall not have the effect of validating or correcting any such regulation which is otherwise invalid or defective in any respect or for any reason. 1944, c. 52, s. 9.

CHAPTER 338

The Religious Institutions Act

1.—(1) Where a religious society or congregation of Christians desires to take a conveyance of land for the site of a church, chapel, meeting-house, burial ground, residence for a minister, book store, printing or publishing office or for any other religious or congregational purpose, such society or congregation may appoint trustees to whom, and their successors, to be appointed in such manner as may be specified in the conveyance, the land requisite for all or any of such purposes may be conveyed, and such trustees and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land and maintain and defend actions for the protection thereof and of their property therein.

Appointment and powers of trustees to take conveyances.

(2) The conveyance to the trustees may be made to them under a collective name, and it shall not be necessary to set out their individual names as parties thereto, provided such names be set out or appear therein by recital or otherwise, and this shall apply to conveyances heretofore made as well as to those hereafter to be made.

Description of trustees in conveyances.

(3) If the name by which any such religious society or congregation or trustees therefor have heretofore held or hereafter hold land under and pursuant to the powers of this Act has been or shall be changed by such religious society or congregation by by-law or resolution such change of name shall not prejudice or affect the title of the society or congregation or their trustees to the land. R.S.O. 1937, c. 379, s. 1.

Provision for change of name.

2. Where trustees appointed as provided in section 1 hold land for the purposes aforesaid or any of them and the religious society or congregation for which they hold the land desires to take a conveyance of additional land for any of such purposes, whether such additional land adjoins the land already held or not, and such religious society or congregation desires the same to be held by the same trustees, the society or congregation may by resolution direct that such land be conveyed to the trustees by their collective name and upon the conveyance being so made the land shall vest in the trustees for the purposes declared by the conveyance and shall be subject to the provisions of this Act in the same manner as the other land held by the trustees. R.S.O. 1937, c. 379, s. 2.

Conveyance of additional lands to trustees.

Power to vary number of trustees.

3.—(1) Any congregation or society of Christians entitled to the benefit of any land held under the provisions of this Act, or otherwise, may by a resolution passed by a two-thirds vote of the persons entitled to vote in respect of the appointment of trustees increase or decrease the number of trustees by the conveyance or otherwise to be appointed for the purpose of holding such land, or may in like manner fix the number of trustees if the conveyance makes no provision as to their number.

Notice, meeting and resolution.

(2) No such resolution shall be passed unless at a meeting of which notice has been given in the manner required for a meeting for the election of trustees for such land, stating that a proposal for increasing or decreasing or determining, as the case may be, the number of the trustees, will be considered at the meeting.

When resolution for increase in number to take effect.

(3) If the resolution provides for the appointment of more trustees than are authorized by the conveyance, or more than there are in fact if the number is not limited by the conveyance, the same shall take effect forthwith, and the additional trustees to be appointed may be elected at the meeting at which the resolution is passed or at a subsequent meeting.

When resolution for reduction in number to take effect.

(4) If the resolution provides for a smaller number of trustees than the conveyance provides for the resolution shall not take effect until vacancies occur, by death or otherwise, reducing the number of trustees to the number provided for by the resolution, and no other trustee shall be appointed until the number has been reduced below the number authorized by the resolution. R.S.O. 1937, c. 379, s. 3.

Power to mortgage.

4.—(1) Where a debt has heretofore been or is hereafter contracted for the building, repairing, extending or improving of a church, chapel, meeting-house, residence for a minister, book store, printing or publishing office or other building on land held by trustees for the benefit of any society or congregation in Ontario, or for the purchase of the land on which the same has been or is intended to be erected, the trustees, or a majority of them, may secure the debt or any part thereof by a mortgage upon the land, or may borrow money to pay the debt or part thereof and may secure the repayment of the loan and interest by a like mortgage upon such terms as may be agreed upon.

Where church building is not erected on land held by trustees.

(2) The authority conferred by this section shall extend to any land so held, although the church or other building in respect of which the debt is contracted is not erected on such land. R.S.O. 1937, c. 379, s. 4.

5. In the case of separate, but contiguous parcels of land held under separate conveyances by trustees for the same religious society or congregation under this Act, if such parcels of land be so used, occupied, or built upon as to become indivisible except by the removal, alteration, or destruction, in whole or in part, of such user, occupation or building, the trustees of such parcels may join in any mortgage authorized by section 4. R.S.O. 1937, c. 379. s. 5.

Power to join in mortgage of lands held under separate conveyances.

6.—(1) The grantees in trust named in any letters patent from the Crown, or the survivors or survivor of them, or the trustees for the time being appointed in manner prescribed in the letters patent, whereby land is granted for the use of a religious society or congregation and any other trustees for the time being entitled by law to hold land in trust for the use of a religious society or congregation may lease for any term not exceeding 21 years land so held by them at such rent and upon such terms as the trustees or a majority of them deem reasonable.

Power to lease.

(2) In such lease the trustees may covenant or agree for the renewal thereof at the expiration of any or every term of years for a further term of 21 years or a less period at such rent and on such terms as may then be agreed upon with the lessee, his heirs, executors, administrators or assigns, or may consent or agree for the payment to the lessee, his executors, administrators or assigns of the value of any buildings or other improvements which may at the expiration of any term be on the demised premises, and the mode of ascertaining the amount of such rent or the value of such improvements may also be specified in the original lease.

Power to agree in leases to renew.

(3) The trustees shall not so lease without the consent of the society or congregation for whose use they hold the land in trust, and such consent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose; nor shall the trustees lease any land which at the time of making the lease is necessary for the purpose of erecting a church or place of worship or other building thereon or for a burial ground for the society or congregation.

Consent of society or congregation to lease.

(4) The trustees may, in their own names or by any name by which they hold the land, sue or distrain for rent in arrear, and may take all such means for the recovery thereof as landlords are entitled to take. R.S.O. 1937, c. 379, s. 6.

Remedies of trustees for rent in arrear.

7.—(1) Where land held by trustees for the use of a society or congregation becomes unnecessary to be retained for such

Power to sell.

use and it is deemed advantageous to sell it, the trustees for the time being may give public notice of an intended sale, specifying the premises to be sold and the time and terms of sale, and after publication of the notice once in each week for four successive weeks in a daily or a weekly newspaper published in or near the place where the land is situate they may sell the land at public auction according to the notice, but the trustees shall not be obliged to sell if in their judgment an adequate price is not offered.

Private sale.

(2) The trustees may thereafter sell the land either by public or private sale, but a less sum shall not be accepted at private sale than was offered at the public auction without the consent of the society or congregation.

Special powers not affected.

(3) This section shall not affect or vary any special powers or trusts for sale contained in any deed or instrument inconsistent herewith. R.S.O. 1937, c. 379, s. 7.

Sale or exchange of property held by trustees.

8.—(1) Where at a meeting of a society or congregation duly called in accordance with the statutes, by-laws, rules and regulations governing the same, it has been proposed to sell, exchange or otherwise deal with any land held by trustees for the use of such society or congregation, and the society or congregation has by resolution approved of the proposed method of dealing with such land, or some part thereof, and the price to be paid or property to be accepted in exchange therefor, and all other terms and conditions of such sale, exchange, or other disposition, it shall not be necessary for the trustees to give any other notice or to offer the land for sale by public auction, as provided in section 7, but the trustees may make a conveyance or other disposition of the land dealt with in accordance with the terms and conditions of such resolution.

Notice of meeting.

(2) In the absence of any rule or regulation defining the notice that is to be given of any meeting of such society or congregation, such meeting shall be properly called upon three days' notice given by announcement from the pulpit or by written notice posted up upon the door of the church and in the nearest schoolhouse or post office for three days before such meeting. R.S.O. 1937, c. 379, s. 8.

Conveyance to trustees of new congregation.

9.—(1) Where land is held by trustees for the use of a religious society or congregation and a separate society or congregation is formed therefrom, the trustees for the time being may convey to the trustees of such separate society or congregation such part of the land as is no longer required for the use of the society or congregation for the use of which it is so held, but no such conveyance shall be made unless and until the assent thereto of the last-mentioned society or con-

gregation has been first obtained or the conveyance is sanctioned in the manner provided by section 12.

(2) Every conveyance heretofore executed to any such separate society or congregation and so assented to or sanctioned shall be as valid and binding as if subsection 1 had been in force at the time such assent or sanction was given and such conveyance was executed; but this subsection shall not apply to a conveyance which is in question in an action pending on the 7th day of March, 1910, or which has heretofore been determined to be invalid or affect any adverse right or title acquired before that date. R.S.O. 1937, c. 379, s. 9.

As to such conveyance heretofore executed.

10.—(1) Where land is held by trustees for the use of any religious society or congregation and such society or congregation desires to unite with another society or congregation of the same denomination, the trustees for the time being may convey any land held by them to the trustees of the last-mentioned society or congregation or of the united society or congregation, but no such conveyance shall be made unless and until it is assented to or sanctioned in the manner provided by section 12.

Conveyance where congregations unite.

(2) Every such conveyance heretofore made shall be as valid and binding as if subsection 1 had been in force at the time such assent or sanction was given and such conveyance was made. R.S.O. 1937, c. 379, s. 10.

Conveyances heretofore made.

11. The trustees of any religious society or congregation may convey the land belonging to such society or congregation to any incorporated board of the denomination of which such society or congregation forms part, but no such conveyance shall be made unless and until the assent thereto of such society or congregation has been first obtained or the conveyance is sanctioned in the manner provided by section 12. R.S.O. 1937, c. 379, s. 11.

Conveyance to denominational board.

12.—(1) Before any conveyance is executed in pursuance of a public or private sale, the society or congregation for whose use the land is held shall be duly notified thereof, and its assent obtained to the execution of the deed, and such assent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose.

Consent of society or congregation to sale.

(2) Such assent shall be held in favour of the grantee, his heirs and assigns to be conclusively attested by the execution of the deed by the chairman at such meeting, or by the official head of such society or congregation, or by some person appointed at such meeting for the purpose, and the person

Evidence.

assuming to execute the deed as chairman, official head or appointee shall be deemed to be such chairman, official head or appointee, as the case may be.

Approval by
county
judge.

(3) Instead of such assent, it shall be sufficient for the validity of any such conveyance that the sale be sanctioned and the conveyance approved of by the judge of the county or district court of the county or district in which the land is situate. R.S.O. 1937, c. 379, s. 12.

Mode of
appointing
trustees'
successors.

13.—(1) Any society or congregation on whose behalf land is now, has been or hereafter may be held by a trustee or trustees, without the manner of appointing successors being set forth in the grant, conveyance, or devise of such land, or which is or may be entitled to any land, at any time hereafter may assemble in a public meeting duly convened by notice in writing, signed by at least five members of such society or congregation, and affixed to the door of its place of worship, at least eight days before the day appointed for holding such meeting, and at such meeting, by the votes of a majority of the members present, may determine in what manner the successors to such trustee or trustees shall be appointed, or may appoint a trustee or trustees of any land to which the society or congregation is entitled, and determine in what manner their successors in the trust shall be appointed.

Effect of
registration
of pro-
ceedings.

(2) Any land to which the society or congregation is entitled shall from time to time vest in and be held by the trustee or trustees to be appointed as hereinbefore mentioned, and their successors in the trust, immediately upon the registration of the proceedings without any or further conveyance or instrument. R.S.O. 1937, c. 379, s. 13.

Where two
societies
desire to
build a
house of
worship:

14. Where members or adherents in any locality of two or more religious societies desire to build a house for public worship, it shall be lawful for each of the societies respectively to appoint from time to time one trustee in the manner and form prescribed in this Act, and the trustees of the religious societies so united shall have the like powers as are conferred on trustees under this Act, and no others, and as to any act, deed or thing to be done or made by trustees under this Act which requires the sanction or assent of the society or congregation, the trustees under this section shall obtain the sanction or assent of each and every of the religious societies so united, to be ascertained and signified in the manner hereinbefore mentioned. R.S.O. 1937, c. 379, s. 14.

Record of
proceedings.

15.—(1) A record of the proceedings of every meeting held under this Act shall be entered in the minute book or other official register of the acts and proceedings of the society

or congregation, and shall be signed by the chairman and secretary thereof, and shall thereafter be deposited of record among the archives of the society or congregation, and a copy of such record verified by the affidavit of the chairman or secretary of the meeting may be recorded in the registry office of the registry division in which the land is situate.

(2) A copy of such proceedings taken from the minute book or other official register of the society or congregation and certified by the clerk or custodian of the records of the society or congregation, or a copy certified by the registrar of the registry division wherein the same has been registered, shall be *prima facie* evidence of the contents thereof. R.S.O. 1937, c. 379, s. 15. Copy as evidence.

16. Trustees selling or leasing land under the authority of this Act shall on the first Monday in July in every year have ready and open for the inspection of the society or congregation which they represent, or of any member thereof, a detailed statement showing the rents which accrued during the preceding year, and all sums of money whatever in their hands for the use and benefit of the society or congregation which were in any manner derived from the land under their control or subject to their management, and also showing the application of any portion of the money which has been expended on behalf of the society or congregation. R.S.O. 1937, c. 379, s. 16. Duty of trustees as to accounting.

17. This Act shall not repeal, alter, affect or vary any of the provisions in any special Act contained with reference to any religious society or congregation, but, on the contrary, any of such provisions which differ from or are inconsistent with any of the provisions of this Act shall prevail, and where any additional rights or privileges are conferred by this Act, they shall be construed as supplementary to the provisions contained in any such special Act, and in every case the special trusts or powers of trustees contained in any deed, conveyance or other instrument shall not be affected or varied by any of the provisions of this Act. R.S.O. 1937, c. 379, s. 17. This Act not to affect special Acts as to religious bodies.

18.—(1) Whenever any two or more parcels of land adjoining each other, or in the same neighbourhood, are held as sites for burial grounds, by different bodies of trustees, whether of the same or different denominations, societies or congregations, and such trustees think it desirable that such parcels should be vested in one body of trustees, such two or more bodies of trustees, or the majority of each of such bodies, may by deed appoint trustees to whom and their successors, to be appointed in such manner as may be specified in such deed, all or any of the land vested in such appointing bodies of trustees Power to appoint joint trustees for two or more burial grounds which adjoin each other.

as sites for burial grounds may be conveyed, and such trustees so appointed and their successors in perpetual succession by the name expressed in the deed may take, hold and possess the land thereby or thereafter conveyed to them as a site or sites for a burial ground, and maintain and defend actions for the protection thereof and of their property therein, and the several appointing bodies of trustees may, in or by the same deed of appointment or by any other deed or deeds, convey and assure all or any of the parcels of land so vested in them respectively to such trustees so appointed and their successors upon, with and subject to such trusts, powers, limitations and provisions not inconsistent with the purposes of a burial ground as shall by the parties thereto be deemed proper.

Assent of congregation or religious body required.

(2) No such deed of appointment of trustees and no such conveyance or assurance shall be made or executed by any body, or the majority of any body, of trustees unless or until the society or congregation for whose use the land is held is duly notified thereof, and its assent obtained to the execution of such deed of appointment, or of such conveyance or assurance, and such assent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose.

Evidence of assent.

(3) Such assent shall be held in favour of such new trustees and their successors to be attested by the execution of the deed by the chairman at such meeting, or by the official head of such society or congregation, or by some person appointed at such meeting for the purpose, and the person assuming to execute the deed as chairman, official head, or appointee shall be presumed to be such chairman, official head, or appointee, as the case may be. R.S.O. 1937, c. 379, s. 18.

Rights extended to the Church of England.

19.—(1) All the rights, powers, and privileges, conferred upon any society or congregation by this Act shall extend and apply to the Church of England in Ontario, formerly or otherwise called the United Church of England and Ireland in Canada, or the United Church of England and Ireland in Upper Canada, or the Church of England in Upper Canada.

Incumbent and church wardens to be trustees.

(2) The parson or other incumbent of the church for the time being and the churchwardens thereof shall, for the purposes of this Act, be deemed to be trustees within the meaning thereof.

Bishop, etc., to be trustees under 3 V., c. 74, s. 16.

(3) In cases within section 16 of the Act passed in the third year of the reign of Her late Majesty Queen Victoria, chaptered 74, intituled *An Act to make provision for the management of the Temporalities of the United Church of England and Ireland in this Province, and for other purposes therein mentioned*, the bishop, or parson, rector or incumbent or any successor or other person in whom the legal title or

estate is vested, by, from or under any of them, shall also be deemed to be a trustee by whom the like rights and powers of trustees may be exercised as in the case of such trustees.

(4) In cases of property vested in the bishop of any diocese in trust, not covered by subsection 3, the bishop shall also be deemed to be a trustee by whom the like powers of trustees under this Act may be exercised as in the case of such trustees.

Property vested in the bishop in trust.

(5) In cases of property vested in the synod of any diocese within the Act passed in the seventh year of the reign of Her late Majesty Queen Victoria, chaptered 68, intituled *An Act to Incorporate the Church Societies of the United Church of England and Ireland, in the Dioceses of Quebec and Toronto*, and the Act passed in the thirty-second year of the reign of Her late Majesty Queen Victoria, chaptered 51, intituled *An Act to Incorporate the Synod of the Diocese of Toronto, and to Unite the Church Society of the Diocese of Toronto therewith*, the synod shall also be deemed to be a trustee by whom the like rights and powers of trustees under this Act may be exercised as in the case of such trustees, and the powers of the synod under this subsection may be exercised by and through such boards and committees as the synod may by by-law appoint for that purpose.

Property vested in the synod in trust within 7 V., c. 68 and 32 V., c. 51.

(6) Provided that land shall not be sold or leased, mortgaged or otherwise encumbered under the powers conferred by this Act except with the consent of the vestry of the church or congregation interested therein and of the bishop of the diocese and the executive committee of the synod of the diocese, and it is hereby declared that the consent of the vestry given in accordance with the rules and canons of such church shall be deemed to be the consent of the congregation, and the execution of the conveyance by the bishop and by the secretary or secretaries of the synod, or a memorandum of consent endorsed thereon and signed by them, shall, in favour of the grantee, his heirs and assigns, be conclusive evidence of the consent of the bishop and executive committee. R.S.O. 1937, c. 379, s. 19.

How land may be sold or encumbered, consent requisite.

20. All the rights and privileges conferred upon any religious society or congregation mentioned in section 1 shall extend in every respect to the Roman Catholic Church, to be exercised according to the government of that church. R.S.O. 1937, c. 379, s. 20.

Rights extended to Roman Catholic Church.

21. All the rights and privileges conferred upon any religious society or congregation mentioned in section 1 have been, since the 7th day of April, 1891, and are hereby extended to and shall apply to any society or congregation of Jews professing the Jewish religion. R.S.O. 1937, c. 379, s. 21.

Rights extended to Jews.

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CHAPTER 339

The Replevin Act

1. In this Act, "sheriff" includes any officer to whom an execution or other process is directed. R.S.O. 1937, c. 111, s. 1. Interpretation.

2. Where goods, chattels, deeds, bonds, debentures, promissory notes, bills of exchange, books of account, papers, writings, valuable securities or other personal property or effects have been wrongfully distrained or have been otherwise wrongfully taken or detained, the owner or other person capable of maintaining an action for damages therefor may bring an action of replevin for the recovery thereof and of the damages sustained by reason of such distraint, taking or detention. R.S.O. 1937, c. 111, s. 2. where goods may be replevied.

3. An action of replevin shall not be brought for the recovery of personal property seized under process by and in the custody of a sheriff, or for the recovery of liquor within the meaning of *The Liquor Control Act* seized under any Act of the Legislature. R.S.O. 1937, c. 111, s. 3, *amended*. Goods seized under legal process.

Rev. Stat., c. 210.

4. Where a sheriff has in his hands an order of replevin and the property to be replevied or any part thereof is reasonably supposed to be secured or concealed in a dwelling house of the defendant or of any other person holding the same for him and the sheriff publicly demands at the door of the dwelling house delivery of the property to be replevied and the same is not delivered to him within six hours after the demand, he may, and shall, if necessary, but during daylight only, break open the dwelling house for the purpose of replevying such property or any part thereof, and, if found therein, shall make replevin according to the order. R.S.O. 1937, c. 111, s. 4. Power of sheriff.

5. Where the property to be replevied, or any part thereof is reasonably supposed to be secured or concealed in an enclosure other than a dwelling house of the defendant or of any other person holding the same for him and the sheriff publicly demands at the enclosure delivery of the property to be replevied and the same is not forthwith delivered to him, he may, and shall, if necessary, at once break open the enclosure for the purpose of replevying such property, or any part thereof, and, if found therein, shall make replevin according to the order. R.S.O. 1937, c. 111, s. 5. When concealed in other enclosure.

When concealed on person, etc.

6. Where the property to be replevied or any part thereof is reasonably supposed to be concealed either about the person or on the premises of the defendant or of any other person holding the same for him and the sheriff demands from the defendant or such other person delivery thereof and delivery is neglected or refused, he may, and, if necessary shall, search and examine the person, and, subject to sections 4 and 5, the premises of the defendant or other person, for the purpose of replevying the property or any part thereof, and, if found, shall make replevin according to the order. R.S.O. 1937, c. 111, s. 6.

CHAPTER 340

The Representation Act

1. Notwithstanding anything in any general or special Act the boundaries of any county, territorial district, city, town, village or township shall for the purposes of this Act be deemed to be the boundaries of such county, territorial district, city, town, village or township as defined by statute, by-law, proclamation or other lawful authority on the 16th day of May, 1934. R.S.O. 1937, c. 6, s. 1. Municipal boundaries.

2. The Assembly shall consist of 90 members. R.S.O. 1937, c. 6, s. 2. Number of members.

3. Ontario shall for the purpose of representation in the Assembly be divided into electoral districts as enumerated and defined in the Schedule to this Act and one member shall be returned to the Assembly for each electoral district. R.S.O. 1937, c. 6, s. 3. Division of Ontario into electoral districts.

4. The boundaries of any electoral district as set out in the Schedule to this Act shall not be affected by any alteration in municipal boundaries made after the 16th day of May, 1934. R.S.O. 1937, c. 6, s. 4. Changes in municipal boundaries.

5. The electors entitled to vote in any town or village, not expressly included in an electoral district described in the Schedule to this Act, and lying within the boundaries of two or more electoral districts, shall be entitled to vote in the electoral district in which they would have been so entitled if the town or village had not become incorporated. R.S.O. 1937, c. 6, s. 5. Towns and villages on boundary lines.

6. Except as otherwise expressly set out in the Schedule to this Act every augmentation or gore of a township shall for the purposes of this Act be considered as forming part of the electoral district in which the township is situate. R.S.O. 1937, c. 6, s. 6. Augmentations or gores of townships.

7. A city which constitutes an electoral district, or which is divided into two or more electoral districts, according to the Schedule to this Act, shall not for the purposes of this Act be deemed to form part of the electoral district within the limits of which it lies. R.S.O. 1937, c. 6, s. 7. Cities having separate representation.

Cities,
towns, etc.,
included in
electoral
district in
which
situate.

8. Every city, town, village or township incorporated before or after the 16th day of May, 1934, lying within the territorial limits of any electoral district described in the Schedule to this Act and not specially included in any other electoral district in the Schedule, shall form part of the electoral district in which it is situate. R.S.O. 1937, c. 6, s. 8 (1).

Special Acts
overruled.

9. Every city, town, village or township which by the provisions of any special Act passed before the 16th day of May, 1934, forms or forms part of any electoral district shall after such day, notwithstanding such provisions, form or form part of the electoral district or districts in which it is included in the Schedule to this Act. R.S.O. 1937, c. 6, s. 8 (2).

SCHEDULE

ELECTORAL DISTRICTS OF THE PROVINCE OF ONTARIO

THE ELECTORAL DISTRICT OF ADDINGTON—to consist of the Townships of Abinger, Anglesea, Ashby, Camden, Denbigh, Effingham, Kaladar, Sheffield, and the Village of Newburgh in the County of Lennox and Addington, and the Townships of Barrie, Bedford, North Canonto, South Canonto, Clarendon, Hinchinbrook, Kennebec, Loughborough, Pittsburg, Miller, Olden, Oso, Palmerston, Portland, Kingston and Storrington in the County of Frontenac.

ELECTORAL DISTRICT OF ALGOMA-MANITOULIN—to consist of parts of the Territorial Districts of Sudbury and Algoma, described as follows: Commencing at the southeast angle of the Township of MacKinnon on the north shore of Lake Huron; thence due north astronomically along the east boundary of the Townships of MacKinnon, Hallam, Shakespeare, Dunlop, Bigelow, and Township No. 113 to the northeast angle of the latter, a distance of 36 miles, more or less; thence due west astronomically along the north boundary of said Township No. 113, 6 miles, more or less, to the southwest angle of Township No. 114; thence due north astronomically along the west boundary of Township No. 114, and along the west boundary of Township No. 115, 12 miles, more or less, to the northwest angle thereof; thence continuing due north astronomically along O.L.S. David Beatty's meridian line 12 miles; thence due west astronomically 30 miles, more or less, to the 12th mile post on O.L.S. Niven's meridian line; thence north astronomically along said meridian line 18 miles; thence due west astronomically 66 miles, more or less, to O.L.S. Speight's meridian line; thence due south astronomically along said meridian line 30 miles, more or less, to the northwest angle of the Township of Whitman; thence due south astronomically along the west boundary of the Townships of Whitman and Chesley to the north boundary of the Township of Kehoe; thence along the north boundary of said township to the northeast angle thereof; thence south along the east boundary of said township to the southeast angle; thence westerly along the southerly boundary of said township and its projection to Echo River; thence down Echo River to Echo Bay to Lake George; thence southerly along the east shore of said bay and along the east shore of Lake George to Lake Huron; thence easterly along the north shore of Lake Huron to the place of beginning; and to include all islands in Lake Huron lying north of the Judicial District of Manitoulin, west of the southern prolongation of the east

boundary of the Township of MacKinnon; and of the Great Manitoulin Islands, Cockburn Island and other islands in the Georgian Bay, at present forming part of the Territorial District of Manitoulin, and that portion of the present Territorial District of Manitoulin on the mainland, and part of the Territorial District of Sudbury, described as follows: Commencing at the southeast angle of the Township of MacKinnon, on the north shore of Lake Huron; thence north astronomically along the east boundary of the Townships of MacKinnon, Hallam, Shakespeare, Dunlop and Bigelow, to the northeast angle of the latter, a distance of 30 miles, more or less; thence due east astronomically along the north boundary of the Townships of Vernon and Totten, 12 miles, more or less, to the northeast angle of the latter; thence south astronomically along the east boundary of the Townships of Totten and Hyman, 12 miles, more or less, to the southeast angle of the latter; thence east astronomically along the south boundary of the Townships of Drury, Denison, Graham and Waters, 24 miles, more or less, to the northeast angle of Township No. 69; thence due south astronomically along the east boundary of Townships numbered 69, 68 and 67, 18 miles, more or less, to the northeast angle of the Township of Humboldt; thence due west astronomically along the north boundary of the Townships of Humboldt and Carlyle and along the south boundary of Townships numbered 82 and 90 to P. L. Surveyor Salter's second meridian line; thence due south astronomically along said meridian line, one mile, more or less, to the water's edge of Lake Huron; thence westerly along the north shore of said lake to the southeast angle of the Township of MacKinnon, or place of beginning.

THE ELECTORAL DISTRICT OF BRANT—to consist of that part of the Township of Brantford lying north of the Grand River, the Townships of Burford, Blenheim, South Dumfries, Oakland, Onondaga, Tuscarora, Windham and Townsend, the Town of Paris, and the Village of Waterford.

THE ELECTORAL DISTRICT OF BRANTFORD—to consist of the City of Brantford, and that part of the Township of Brantford lying south of the Grand River.

THE ELECTORAL DISTRICT OF BRUCE—to consist of the Townships of Albemarle, Amabel, Arran, Bruce, Eastnor, Elderslie, Lindsay, St. Edmunds, Saugeen, Brant, Greenock, Kincardine, the Towns of Chesley, Southampton, Wiarton, Kincardine and Walkerton, and the Villages of Hepworth, Paisley, Tara, Tiverton, Port Elgin and Lion's Head.

THE ELECTORAL DISTRICT OF CARLETON—to consist of the Townships of Fitzroy, Goulbourn, North Gower, Huntley, March, Marlborough, Nepean and Torbolton, and the Village of Richmond, that portion of Elmdale Ward in the City of Ottawa lying west of the centre line of Parkdale Avenue and that portion of Victoria Ward in the City of Ottawa lying west of the centre line of Parkdale Avenue.

THE ELECTORAL DISTRICT OF COCHRANE NORTH—to consist of those portions of the territorial districts of Cochrane, South Algoma and Thunder Bay, and the District of Kenora, Patricia Portion, within the hereinafter described limits: Commencing at the intersection of the interprovincial boundary between the Province of Ontario and the Province of Quebec with the south shore of Lake Abitibi; thence in a northerly and north-westerly direction following the shore line of the said lake to the southeast angle of the Township of Galna; thence westerly along the southern boundary of the Townships of Galna, Moody and Wesley to the southwest angle of the last-mentioned township; thence north along the west boundary of

the said Township of Wesley to the southeast angle of the Township of Mortimer; thence west along the south limits of the Townships of Mortimer, Pyne, St. John, Hanna, Reaume, Beck, Nesbitt, Aubin, Kingsmill and Kirkland; thence northerly along the westerly boundary of the Township of Kirkland to the southeast angle of the Township of Ford; thence westerly along the southern boundary of the Townships of Ford, Stringer, Slack and Fenton; thence northerly along the western boundary of the Townships of Fenton and Staples to the southern boundary of the Township of Sulman; thence westerly along the southern boundary of the Townships of Sulman, Cargill, Ecclestone, Fergus, Rykert, Caithness, Scholfield and Talbott; thence northerly along the western limits of the Townships of Talbott, Templeton, Landry and Irish to the northwest corner of the last-mentioned township; thence westerly along the southern boundary of the Townships of Studholme, Gill, McMillan, McCoig, Kohler and Clavet; thence northerly along the western limit of the Township of Clavet to the southeast corner of the Township of Bell; thence west along the southern limit of the Townships of Bell, Low, Klotz, Fernow, O'Meara and Bain; thence northerly along the western boundary of the Townships of Bain and Raynar and following the boundary line between the Territorial District of Thunder Bay and the Territorial District of Cochrane and the production of the said boundary line north astronomically to the northern boundary of the Province of Ontario; thence easterly, southerly and southeasterly along said northern boundary to a point where the boundary line between the Province of Quebec and the Province of Ontario intersects the south shore of James Bay; thence southerly along the said interprovincial boundary to the place of beginning.

THE ELECTORAL DISTRICT OF COCHRANE SOUTH—to consist of those portions of the District of Timiskaming and the District of Cochrane described as follows: Commencing at a point on the line between the Province of Ontario and the Province of Quebec where the said boundary line intersects the production of the southern boundary of the Township of McGarry; thence westerly along the southern boundary of the Townships of McGarry, McVittie, Gauthier, Lebel, Teck, Grenfell, Bompas, Dunmore, Sheba, Robertson, McNeil, Cleaver, Geikie, Bartlett, Musgrove, Doyle, Childerhouse and Pharrand; thence northerly following the west boundary of the Townships of Pharrand, Hillary, Keefer and Whitesides to the southeasterly corner of the Township of Enid; thence westerly along the southern boundary of the Townships of Enid, Strachan, Nova and Ossin; thence northerly along the western boundary of the Townships of Ossin, Wadsworth, Lisgar, and Seaton to the northwest angle of the Township of Seaton; thence easterly along the northern boundary of the Townships of Seaton, Griffin, Hicks and Oke to the northeast corner of the said Township of Oke; thence southerly along the eastern boundary of the Township of Oke to its intersection with the southern boundary of the Township of Kirkland; thence easterly along the southern boundary of the Townships of Kirkland, Kingsmill, Aubin, Nesbitt, Beck, Reaume, Hanna, St. John, Pyne and Mortimer; thence southerly following the western boundary of the Township of Wesley to the southwest angle of the said Township; thence easterly along the southern boundary of the Townships of Wesley, Moody and Galna to the shore of Lake Abitibi; thence following the shore line of the said lake in a southerly and southeasterly direction to a point where the boundary between the Province of Ontario and the Province of Quebec intersects the south shore of the said lake; thence southerly along the said interprovincial boundary to the place of beginning.

THE ELECTORAL DISTRICT OF DUFFERIN-SIMCOE—to consist of the Townships of the Adjala, Essa, Mono, Mulmur, Nottawasaga, Tecumseth and Tossorontio, the Towns of Alliston, Collingwood, Stayner and Orangeville, and the Villages of Beeton, Creemore and Tottenham.

THE ELECTORAL DISTRICT OF DURHAM—to consist of the County of Durham.

THE ELECTORAL DISTRICT OF ELGIN—to consist of the Townships of Southwold, Bayham, Malahide, South Dorchester and Yarmouth, the City of St. Thomas, the Town of Aylmer, and the Villages of Port Stanley, Springfield and Vienna.

THE ELECTORAL DISTRICT OF ESSEX NORTH—to consist of the Townships of Maidstone, Rochester, Sandwich East, Sandwich South, Tilbury North and Tilbury West, the city of East Windsor, the Towns of Riverside and Tecumseh, and the Villages of Belle River and St. Clair Beach.

THE ELECTORAL DISTRICT OF ESSEX SOUTH—to consist of the Townships of Anderdon, Colchester North, Colchester South, Gosfield North, Gosfield South, Malden, Mersea and Pelee (including the Islands forming part thereof), the Towns of Amherstburg, Essex, Kingsville and Leamington, and the Village of Harrow.

THE ELECTORAL DISTRICT OF FORT WILLIAM—to consist of all that portion of the Territorial District of Thunder Bay within the hereinafter described limits, that is to say: Commencing at a point on the International Boundary between the Province of Ontario and the United States of America where the same is intersected by the boundary lines between the Territorial Districts of Thunder Bay and Rainy River; thence northerly along the said district boundary and continuing along the district boundary between the Territorial District of Kenora, and the Territorial District of Thunder Bay; thence continuing north through the District of Kenora, Patricia Portion, to the northern boundary of the Province of Ontario; thence in a northeasterly direction along the said northern boundary line of the Province of Ontario to a point where the same is intersected by a line drawn due north astronomically from the northwest angle of the Nipigon Forest Reserve to the middle thread of the Albany River; thence westerly following the middle thread of the Albany River to a point due north astronomically from the southeast angle of the Grand Trunk Pacific, Block I; thence south astronomically to the said southeast angle; thence east along the northern boundary of the Township of Forbes and the production thereof to the centre of Dog River; thence southerly down stream along the middle thread of Dog River to the northern limit of the Township of Oliver; thence east astronomically along the north boundary of the Township of Oliver to the northeast angle thereof; thence south astronomically along the east limit of the said Township of Oliver to the north limit of the Township of Paipoonge; thence east astronomically along the north limit of the said Township of Paipoonge and along the north limit of the Township of Neebing to the west shore of Thunder Bay of Lake Superior; thence continuing due east astronomically 8 miles, more or less, to a point due north astronomically from the most easterly point on Pie Island in said Bay; thence due south astronomically 20 miles, more or less, to said International Boundary; thence southwesterly along said International Boundary to the mouth of the Pigeon River; thence continuing westerly along said International Boundary up Pigeon River to the west boundary of the Territorial District of Thunder Bay or place of beginning.

THE ELECTORAL DISTRICT OF GLENGARRY—to consist of the County of Glengarry, the Township of Caledonia and that part of East Hawkesbury Township and West Hawkesbury Township lying south of the original road allowance between Concessions four and five, and the Town of Vankleek Hill.

THE ELECTORAL DISTRICT OF GRENVILLE-DUNDAS—to consist of the County of Grenville and the County of Dundas.

THE ELECTORAL DISTRICT OF GREY NORTH—to consist of the Townships of Collingwood, Derby, Keppel, Sarawak, St. Vincent, Sullivan and Sydenham, the City of Owen Sound, the Towns of Meaford and Thornbury, and the Village of Shallow Lake.

THE ELECTORAL DISTRICT OF GREY SOUTH—to consist of the Townships of Artemesia, Bentinck, Egremont, Holland, Euphrasia, Glenelg, Normanby, Osprey and Proton, the Towns of Durham and Hanover, and the Villages of Chatsworth, Dundalk, Markdale, Neustadt and Flesherton.

THE ELECTORAL DISTRICT OF HALDIMAND-NORFOLK—to consist of the County of Haldimand, the Townships of Charlotteville, Houghton, Middleton, Walsingham North, Walsingham South (including Long Point) and Woodhouse, the Town of Simcoe, and the Villages of Delhi, Port Dover and Port Rowan.

THE ELECTORAL DISTRICT OF HALTON—to consist of the County of Halton.

THE ELECTORAL DISTRICT OF HAMILTON EAST—to consist of that part of the City of Hamilton lying between the centre line of Wentworth Street on the west and the centre line of Ottawa Street on the east and continuing in a straight line northerly and southerly to the limits of the said City.

THE ELECTORAL DISTRICT OF HAMILTON CENTRE—to consist of that part of the City of Hamilton lying between the centre line of Queen Street on the west and the centre line of Wentworth Street on the east and continuing northerly and southerly to the brow of the Mountain.

THE ELECTORAL DISTRICT OF HAMILTON-WENTWORTH—to consist of the Townships of East Flamboro, West Flamboro and Beverley, the Town of Dundas, and the Village of Waterdown, and all that portion of the City of Hamilton lying west of the centre line of Queen Street, and that portion of the Township of Barton being composed of parts of Lots 20 and 21 in Concessions 3 and 4 of the Township of Barton and more particularly described as follows: Commencing at the intersection of the Hamilton-Brantford Highway with Paradise Road, said Paradise Road being the division line between Lots 20 and 21 in the aforesaid township; thence southerly following the aforesaid division line to the road allowance between Concessions 3 and 4; thence easterly and following the aforesaid road allowance to the division line between Lots 19 and 20 of the aforesaid township; thence southerly along the aforesaid division line between Lots 19 and 20 to the brow of the Mountain; thence westerly along the brow of the Mountain to the division line between the Townships of Ancaster and Barton; thence northerly along said division line to the present Hamilton-Brantford Highway; thence easterly along said Highway to place of beginning.

THE ELECTORAL DISTRICT OF HASTINGS EAST—to consist of the Townships of Hungerford, Huntingdon, Thurlow, Tyendinaga, Madoc, Wicklow, Bangor, Tudor, Limerick, Dungannon, Monteagle, Carlow, Mayo, Cashel, Grimsthorpe and Elzevir, the Town of Deseronto, and the Villages of Madoc and Tweed.

- THE ELECTORAL DISTRICT OF HASTINGS WEST**—to consist of the Townships of Sidney, Rawdon, Marmora, Lake, Wollaston, Faraday, Herschel and McClure, the City of Belleville, the Town of Trenton, and the Villages of Delora, Marmora, Frankford, Bancroft and Stirling.
- THE ELECTORAL DISTRICT OF HURON**—to consist of the Townships of Goderich, Hay, Hullett, McKillop, Stanley, Stephen, Tucker-smith and Usborne, the Towns of Clinton, Goderich and Seaforth, and the Villages of Exeter and Hensall.
- THE ELECTORAL DISTRICT OF HURON-BRUCE**—to consist of the Townships of Ashfield, Carrick, Colborne, Culross, Grey, Howick, Huron, Kinloss, Morris, Turnberry, Wawanosh East and Wawanosh West, the Town of Wingham, and the Villages of Blyth, Brussels, Lucknow, Mildmay, Ripley and Teeswater.
- THE ELECTORAL DISTRICT OF KENORA**—to consist of the Territorial District of Kenora, including that part of the Patricia Portion lying west of the production in a northerly direction through the Patricia Portion of the boundary line between the Territorial District of Thunder Bay and the Territorial District of Kenora to the northern boundary of the Province of Ontario.
- THE ELECTORAL DISTRICT OF KENT EAST**—to consist of the Townships of Camden (not including Gore), Harwich, Howard, Orford, Zone, Aldborough and Dunwich, the Towns of Blenheim, Bothwell and Ridgetown, and the Villages of Ericau, Highgate, Thamesville, Dutton, Rodney and West Lorne.
- THE ELECTORAL DISTRICT OF KENT WEST**—to consist of the Townships of Chatham, East Dover, West Dover, Raleigh, Romney and Tilbury East, the City of Chatham, the Towns of Tilbury and Wallaceburg, and the Villages of Erie Beach and Wheatley.
- THE ELECTORAL DISTRICT OF KINGSTON**—to consist of the City of Kingston, Amherst Island, Howe Island, Wolfe Island (including Simcoe Island, Horseshoe Island and Mud Island), and the Village of Portsmouth.
- THE ELECTORAL DISTRICT OF LAMBTON EAST**—to consist of the Townships of Bosanquet, Brooke, Dawn, Enniskillen, Euphemia, Plympton, Warwick, the Gore of Camden, the Towns of Dresden, Forest and Petrolea, and the Villages of Alvinston, Arkona, Oil Springs, Thedford, Watford and Wyoming.
- THE ELECTORAL DISTRICT OF LAMBTON WEST**—to consist of the Townships of Moore, Sarnia and Sombra (including Walpole Island, St. Anne's Island and the other Islands at the mouth of the River St. Clair), the City of Sarnia and the Villages of Courtwright and Point Edward.
- THE ELECTORAL DISTRICT OF LANARK**—to consist of the Townships of Beckwith, Bathurst, Burgess North, Dalhousie, Darling, Drummond, Elmsley North, Lanark, Lavant, Montague, Pakenham, Ramsay, Sherbrooke North and Sherbrooke South, the Towns of Almonte, Carleton Place, Perth and Smith's Falls, and the Village of Lanark.
- THE ELECTORAL DISTRICT OF LEEDS**—to consist of the Townships of Elizabethtown, Elmsley South, Kitley, the Rear of Yonge and Escott, Bastard, Burgess South, Crosby North, Crosby South, Front of Escott, Leeds and Lansdowne Front, Leeds and Lansdowne Rear, Front of Yonge, the Towns of Brockville and Gananoque, and the Villages of Athens, Newborough and Westport.

THE ELECTORAL DISTRICT OF LINCOLN—to consist of the County of Lincoln and the City of St. Catharines.

THE ELECTORAL DISTRICT OF LONDON—to consist of that part of the City of London lying west of a line described as follows: Commencing at the intersection of Adelaide Street with the north boundary of the said city and following Adelaide Street and Oxford Street to the northeast corner of Wolsley Barracks area; thence following the easterly boundary of the barrack area and its projection southerly to the intersection of the projection of the south side of Central Avenue to the south side of Middleton Avenue; thence following the said projection and the south side of the said street easterly to its intersection with the west side of Glasgow Street; thence following the said west side of Glasgow Street and its projection southerly to the north side of Lorne Avenue and its projection easterly to Burbrook Place; thence following Burbrook Place southerly to Dundas Street and Dundas Street easterly to its intersection with the projection northerly of Swinyard Street; thence southerly along the said projection, the said street and its projection southerly to Pine Street; thence westerly and southerly along Pine Street, Elm Street, Trafalgar Street, Adelaide Street and its projection southerly to the centre line of the south branch of the river Thames; thence along the said centre line downstream to its intersection with the projection northerly of Beverly Street; thence southerly along the said projection and Wellington Street south to the south boundary of the said City.

THE ELECTORAL DISTRICT OF MIDDLESEX NORTH—to consist of the Townships of Biddulph, London, McGillivray, Nissouri West, Williams East, Williams West; the Town of Parkhill, and the Villages of Ailsa Craig and Lucan, and that portion of the City of London not included in the Electoral District of London as hereinbefore described.

THE ELECTORAL DISTRICT OF MIDDLESEX SOUTH—to consist of the Townships of Adelaide, Caradoc, Delaware, North Dorchester, Ekfrid, Lobo, Medcalfe, Mosa and Westminster, the Town of Strathroy, and the Villages of Glencoe, Newbury and Wardsville.

THE ELECTORAL DISTRICT OF MUSKOKA-ONTARIO—to consist of the Provisional Judicial District of Muskoka, the Townships of Brock, Mara, Rama, Scott, Thorah and Uxbridge, the Town of Uxbridge and the Villages of Beaverton and Cannington.

THE ELECTORAL DISTRICT OF NIAGARA FALLS—to consist of the Townships of Bertie, Stamford and Willoughby, the City of Niagara Falls, the Town of Fort Erie and the Villages of Chippawa and Crystal Beach.

THE ELECTORAL DISTRICT OF NIPISSING—to consist of the following townships in the Territorial Districts of Nipissing and Sudbury: Charlton, Lyman, Gladman, Kenny, Grant, Fell, McLaren, Sisk, Bertram, Springer, Field, Bastedo, Thistle, McCallum, Latchford, Caldwell, Badgerow, Gibbons, McWilliams, Hobbs, Falconer, Loudon, McPherson, Kirkpatrick, Hugel, Crerar, Dana, Pardo, Scollard, Martland, Haddo, Casimir, Dunnet, Ratter, Henry, Janes, McNish, Mason, Cosby, Cherriman, Jennings, Appleby, Bigwood, Delamere, Hoskin, Hendrie, Allen, Cox, Servos, Burwash, the unsurveyed township south of the Township of Waldie, Waldie, Laura, Secord, the unsurveyed township south of Township No 59, Township No. 59, Township No. 60, Tilton, also that portion of the Indian Reserve on the north shore of Lake Nipissing lying south of the Townships of Charlton and Grant, also the islands in the French River and in that portion of Lake Nipissing within the Territorial Dis-

tracts of Nipissing and Sudbury lying west of the southerly prolongation of the west limit of the Township of Blyth, also the Towns of Sturgeon Falls and Cache Bay and the following Townships in the Territorial District of Nipissing: Papineau, Boyd, Lister, Freswick, Bower, Sproule, Calvin, Lauder, Pentland, Osler, Bishop, McLaughlin, Canisbay, Bonfield, Boulter, Wilks, Biggar, Devine, Hunter, Peck, East Ferris and West Ferris, Chisholm, Ballantyne, Paxton, Butt, McCraney, Finlayson, Mattawan, Orlig, Phelps, Widdifield, Gooderham, part of Indian Reserve on the north shore of Lake Nipissing south of the Township of Blyth, Antoine, the unnamed township east of the Township of French, French, Mulock, Merrick, Eddy, the unnamed township west of Eddy, Lockhart, Stewart, Poitras, the unnamed township west of Poitras, Garrow, Osborne, Wyse, and the two unnamed townships to the west of Wyse, also the Townships of Blyth, Notman, Hammell, also the City of North Bay, and the Towns of Mattawa and Bonfield.

THE ELECTORAL DISTRICT OF NORTHUMBERLAND—to consist of the County of Northumberland.

THE ELECTORAL DISTRICT OF ONTARIO—to consist of the Townships of Pickering, Reach, Scugog, Whitby and Whitby East, the City of Oshawa, the Town of Whitby, and the Village of Port Perry.

THE ELECTORAL DISTRICT OF OTTAWA EAST—to consist of Ottawa, By, Rideau and St. George's Wards, that part of Riverdale Ward lying east of the centre line of Main Street and that part of Victoria Ward lying east of the centre line of Parkdale Avenue.

THE ELECTORAL DISTRICT OF OTTAWA SOUTH—to consist of Dalhousie, Capital, Central and Wellington Wards and that portion of Riverdale Ward lying west of the centre line of Main Street, and that portion of Elmdale ward lying east of the centre line of Parkdale Avenue.

THE ELECTORAL DISTRICT OF OXFORD—to consist of the Townships of Blandford, Nissouri East, Zorra East, Zorra West, Dereham, Norwich North, Norwich South, Oxford East, Oxford West, and Oxford North, the City of Woodstock, the Towns of Ingersoll and Tillsonburg, and the Villages of Embro, Tavistock and Norwich.

THE ELECTORAL DISTRICT OF PARRY SOUND—to consist of the Provisional Judicial District of Parry Sound.

THE ELECTORAL DISTRICT OF PEEL—to consist of the County of Peel.

THE ELECTORAL DISTRICT OF PERTH—to consist of the County of Perth, the City of Stratford, and the Towns of Palmerston and St. Marys.

THE ELECTORAL DISTRICT OF PETERBOROUGH—to consist of the County of Peterborough and the City of Peterborough.

THE ELECTORAL DISTRICT OF PORT ARTHUR—to consist of all that portion of the Territorial District of Thunder Bay within the hereinafter described limits, that is to say: Commencing at a point in Lake Superior on the International Boundary between the Province of Ontario and the United States of America where the said International Boundary is intersected by the boundary line between the Territorial Districts of Thunder Bay and Algoma, in longitude 85 degrees, 20 minutes west; thence due north astronomically along said meridian line to the southeast angle of the Township of Bell, a distance of 176 miles, more or less; thence west astronomically along the south limit of the Townships of Bell, Low,

Klotz, Fernow, O'Meara and Bain, 54 miles, more or less, to the southwest angle of the last-mentioned township; thence north astronomically along the western limit of the Townships of Bain and Raynar and the boundary between the Territorial District of Thunder Bay and the Territorial District of Cochrane and the said boundary line produced to the northern limit of the District of Kenora, Patricia Portion; thence westerly and southwesterly following the northern limit of the District of Kenora, Patricia Portion, to a point due north astronomically from the northwest angle of the Nipigon Forest Reserve; thence due south to the centre line of the Albany River; thence following the middle thread of the Albany River to a point due north astronomically of the southeast angle of the Grand Trunk Pacific, Block I; thence south astronomically to the said southeast angle; thence east along the north boundary of the Township of Forbes and the production thereof to the centre of Dog River; thence southerly down stream along the middle thread of Dog River to the northern limit of the Township of Oliver; thence east astronomically along the northern limit of the Township of Oliver to the northeast angle thereof; thence south astronomically along the east limit of the said Township of Oliver to the north limit of the Township of Paipoonge; thence east astronomically along the northern limit of the said Township of Paipoonge and along the northern limit of the Township of Nechbing to the west shore of Thunder Bay of Lake Superior; thence continuing due east astronomically 8 miles, more or less, to a point due north astronomically from the most easterly point of Pie Island in said Bay; thence due south astronomically 20 miles, more or less, to said International Boundary; thence northeast and southeast along said International Boundary to the place of beginning.

THE ELECTORAL DISTRICT OF PRESCOTT—to consist of the Townships of Alfred, Clarence, Cambridge, Longueuil, Plantagenet North, Plantagenet South, that part of the Townships of Hawkesbury East and Hawkesbury West lying north of the original road allowance between Concessions four and five, the Towns of Hawkesbury and Rockland, and the Villages of L'Original and Casselman.

THE ELECTORAL DISTRICT OF PRINCE EDWARD-LENNOX—to consist of the County of Prince Edward, the Townships of Adolphustown, Fredericksburg North, Fredericksburg South, Richmond and Ernestown, the Town of Napanee, and the Village of Bath.

THE ELECTORAL DISTRICT OF RAINY RIVER—to consist of the Territorial District of Rainy River.

THE ELECTORAL DISTRICT OF RENFREW NORTH—to consist of the Townships of Airy, Anglin, Algona North, Alice, Bromley, Buchanan, Bronson, Barron, Clara, Cameron, Clancy, Dickens, Deacon, Dickson, Edgar, Fraser, Fitzgerald, Guthrie, Head, Lvell, Maria, McKay, Murchison, Master, Niven, Pembroke, Petawawa, Preston, Rolph, Ross, Stafford, Sabine, Stratton, Westmeath, Wilberforce, Wylie and White, the Town of Pembroke, the Village of Cobden and that part of the Village of Eganville lying north of the Bonnechere River.

THE ELECTORAL DISTRICT OF RENFREW SOUTH—to consist of the Townships of Admaston, Algona South, Bagot, Blithfield, Brougham, Brudenell, Burns, Grattan, Griffith, Hagarty, Horton, Jones, Lynedoch, Matawatchan, McNab, Raglan, Radcliffe, Richards, Sebastopol and Sherwood, the Towns of Arnprior and Renfrew, and the Villages of Braeside, Killaloe Station and that part of the Village of Eganville lying south of the Bonnechere River.

THE ELECTORAL DISTRICT OF RUSSELL—to consist of the Townships of Cumberland, Gloucester, Osgoode and Russell, the Town of Eastview, and the Village of Rockcliffe Park.

THE ELECTORAL DISTRICT OF STORMONT—to consist of the County of Stormont.

THE ELECTORAL DISTRICT OF SAULT STE. MARIE—to consist of that part of the Territorial District of Algoma described as follows: Commencing at the mouth of Echo River on the Garden River Indian Reserve; thence due west astronomically to the International Boundary between the Province of Ontario and the United States of America; thence northerly, westerly and northwesterly along the said International Boundary to where the same is intersected by the boundary between the Territorial Districts of Thunder Bay and Algoma in longitude 85 degrees 20 minutes west; thence due north astronomically following the said boundary to the southwest corner of the Township of Clavet; thence east astronomically along the south boundary of the Townships of Clavet, Kohler, McCoig, McMillan, Gill and Studholme 56 miles more or less, to the southeast angle of the Township of Studholme; thence southerly in a straight line to the northwest angle of the Township of Templeton, a distance of 18 miles, more or less; thence continuing south along the west boundary of the Townships of Templeton and Talbott, a distance of 18 miles, more or less, to the southwest angle of the latter; thence east astronomically along the south boundary of the Township of Talbott 2 miles 77 chains, more or less, to the northeast angle of the Township of Franz; thence south astronomically along the east boundary of the Townships of Franz, Hawkins, Irving, Martin, Moorehouse, and continuing southerly to a point on Niven's base line in latitude 48 degrees 27 minutes 54 seconds north, which point constitutes the northwest angle of the Territorial District of Sudbury, a distance of 51 miles, more or less; thence south along T. B. Speight's meridian line, which constitutes the district boundary between the Territorial Districts of Sudbury and Algoma, to the northwest angle of the Mississauga Forest Reserve, a distance of 84 miles, more or less; thence continuing south astronomically along the west limit of Township No. 23, Ranges 14, 13, 12, 11 and 10, and the Townships of Whitman and Chesley, to the north limit of the Township of Kehoe; thence easterly along said north limit to the northeast angle thereof; thence south along the east limit of said township to the southeast angle thereof; thence west along said south boundary and its production to the Echo River; thence down Echo River to the place of beginning.

THE ELECTORAL DISTRICT OF SIMCOE CENTRE—to consist of the Townships of Floss, Innisfil, Sunnidale, Tiny, Vespra and Gwillimbury West, the Towns of Barrie and Penetanguishene, and the Village of Bradford.

THE ELECTORAL DISTRICT OF SIMCOE EAST—to consist of the Townships of Matchedash, Medonte, Orillia, Oro and Tay, the Towns of Midland and Orillia, and the Villages of Coldwater, Port McNicoll and Victoria Harbour.

THE ELECTORAL DISTRICT OF SUDBURY—to consist of those parts of the Territorial Districts of Sudbury, Algoma and Timiskaming within the hereinafter described limits, that is to say: Commencing at the northeast angle of the Township of Zavitz in the said Territorial District of Sudbury; thence south along the east limit of the Townships of Zavitz, Hutt, Halliday, Mond, Natal, McMurchy, Fawcett, Ogilvie, Browning, Unwin, Leask, McNamara and Beaumont to the southeast angle of the last-mentioned township, a distance of 78 miles,

more or less; thence due east astronomically along the north boundary of the Township of Creelman to the northeast angle thereof, a distance of 6 miles; thence south astronomically along the east boundary of said Township of Creelman to the southeast angle thereof, a distance of 6 miles; thence east astronomically along the north boundary of the Townships of Parkin, Aylmer, Mackelcan, and McCarthy to the northeast angle of the latter, a distance of 25 miles, more or less; thence due south astronomically along the east boundary of the Townships of McCarthy, Kelly, Davis, Loughrin and Hagar to the southeast angle of the latter, a distance of 30 miles, more or less; thence due west astronomically along the south boundary of the Township of Hagar 7 miles, more or less, to the northeast angle of the Township of Hawley; thence due south astronomically along the east boundary of the Township of Hawley 6 miles, more or less, to the southeast angle thereof; thence due west astronomically along the south boundary of the Townships of Hawley, Cleland, Dill, Broder, Waters, Graham, Denison, and Drury, a distance of 48 miles, more or less, to the southwest angle of the latter; thence due north astronomically along the west boundary of the Townships of Drury and Trill, a distance of 12 miles, more or less, to the southeast angle of the Township of Ermatinger; thence due west astronomically along the south boundary of the Township of Ermatinger and Township No. 107 to the southwest angle of the latter; thence due north astronomically along the west boundary of Township No. 107 to the southeast angle of Township No. 114; thence due west astronomically along the south boundary of Township No. 114, 6 miles, more or less, to the southwest angle thereof; thence due north astronomically along the west boundary of Townships No. 114 and No. 115, 12 miles, more or less, to the northwest angle of the latter; thence continuing due north astronomically along Ontario Land Surveyor David Beatty's meridian line 12 miles; thence due west astronomically 30 miles, more or less, to the 12th mile post on Ontario Land Surveyor Alexander Niven's meridian line; thence north astronomically along said meridian line 18 miles; thence due west astronomically 66 miles, more or less, to T. B. Speight's meridian line of 1898, which meridian constitutes the district line between the Territorial Districts of Algoma and Sudbury; thence north astronomically along said district line 84 miles, more or less, to the intersection with Niven's base line in latitude 48 degrees 27 minutes 54 seconds north, said point of intersection being the northwest angle of the Territorial District of Sudbury; thence continuing north to the southeast angle of the Township of Moorehouse; thence north along the east boundary of the Townships of Moorehouse, Martin, Irving, Hawkins and Franz to the northwest angle of the Township of Roche, a distance of 51 miles, more or less; thence east astronomically along the north boundary of the Townships of Roche, Pelletier and Doherty to the northeast angle of the latter, a distance of 27 miles; thence continuing east along O.L.S. Speight's base line of 1910 in latitude 49 degrees 12 minutes 6 seconds north, a distance of 16 miles and 33 chains to its intersection with the west shore of the Opazatika River; thence east astronomically $17\frac{1}{2}$ miles, more or less, to the intersection with a line drawn north astronomically from the northeast angle of the Township of Davin; thence south astronomically 36 miles, more or less, to the northeast angle of the Township of Davin; thence south along the east limit of the Townships of Davin and Loughheed 18 miles, more or less, to the southeast angle of the last-mentioned township; thence east astronomically along Ontario Land Surveyor Niven's base line in latitude 48 degrees, 27 minutes 54 seconds north, 36 miles to the northwest angle of the Township of Whitesides; thence south along the

west limits of the Townships of Whitesides, Keefer, Hillary and Pharand, 24 miles, more or less to the southwest angle of the last-mentioned township; thence east astronomically along the north boundaries of the Townships of Crothers, McBride, Hassard, Beenier, English and Zavitz, a distance of 36 miles, more or less, to the northeast angle of the latter, the point of commencement (and including the City of Sudbury).

THE ELECTORAL DISTRICT OF TIMISKAMING—to consist of all that portion of the Territorial Districts of Nipissing, Sudbury, and Timiskaming within the hereinafter described limits: Commencing at a point in the Interprovincial Boundary between the Provinces of Ontario and Quebec in the Ottawa River where the same is intersected by the easterly production of the north boundary of the Township of Wyse; thence due west astronomically $59\frac{3}{4}$ miles, more or less, to the northwest angle of the Township of McNish; thence north astronomically along the east limit of the Township of McCarthy 6 miles, more or less, to the northeast angle thereof; thence west astronomically along the north boundary of the Townships of McCarthy, Mackelcan, Aylmer and Parkin 25 miles, more or less, to the northwest angle thereof; thence north along the east boundary of the Township of Creelman to the northeast angle thereof; thence west astronomically along the north limit thereof 6 miles, more or less, to the southwest angle of the Township of Beresford; thence north along the west limits of the Townships of Beresford, Cotton, Valin, Stull, Dufferin, North Williams, Leonard, Tyrrell, Knight, Raymond, Midlothian, Montrose and Hincks 78 miles more or less, to the northwest angle of the Township of Hincks; thence east along the south boundary of the Townships of Cleaver, McNeil, Robertson, Sheba, Dunmore, Bonipas, Grenfell, Teck, Lebel, Gauthier, McVittie and McGarry, 72 miles, more or less, to the Interprovincial Boundary between the Provinces of Ontario and Quebec; thence south astronomically along the said Interprovincial Boundary to the head of Lake Timiskaming; thence southerly through Lake Timiskaming and the Ottawa River along said Interprovincial Boundary to the place of beginning.

THE ELECTORAL DISTRICT OF VICTORIA—to consist of the County of Victoria, and the Provisional County of Haliburton.

THE ELECTORAL DISTRICT OF WATERLOO NORTH—to consist of the Townships of Wellesley and Woolwich and the north part of Waterloo Township, the City of Kitchener, the Town of Waterloo, and the Village of Elmira.

THE ELECTORAL DISTRICT OF WATERLOO SOUTH—to consist of the Townships of Dumfries North, Wilmot and the south part of Waterloo Township, the City of Galt, the Towns of Hespeler and Preston, and the Villages of Ayr and New Hamburg.

THE ELECTORAL DISTRICT OF WELLAND—to consist of the Townships of Crowland, Humberstone, Thorold, Wainfleet and Pelham, the City of Welland, the Towns of Port Colborne and Thorold, and the Villages of Fonthill and Humberstone.

THE ELECTORAL DISTRICT OF WELLINGTON NORTH—to consist of the Townships of Arthur, Erin, Amaranth, Garafraxa East, Eramosa, Garafraxa West, Luther East, Luther West, Maryborough, Minto, Peel and Melancthon, the Towns of Harrison and Mount Forest, and the Villages of Arthur, Clifford, Drayton, Erin, Grand Valley and Shelburne.

THE ELECTORAL DISTRICT OF WELLINGTON SOUTH—to consist of the Townships of Guelph, Nichol, Pilkington and Puslinch, the City of Guelph, and the Villages of Elora and Fergus.

THE ELECTORAL DISTRICT OF WENTWORTH—to consist of that portion of the City of Hamilton lying east of Ottawa Street, and also that portion of the City of Hamilton lying between the centre line of Queen Street on the west, and the centre line of Wentworth Street on the east and bounded on the north by the brow of the Mountain and on the south by the south limit of the City of Hamilton; the Townships of Saltfleet, Binbrook, Glanford, and Ancaster, and of the Township of Barton, excepting that portion thereof more fully described as follows: Being composed of parts of Lots 20 and 21 in Concessions 3 and 4 of the Township of Barton and more particularly described as follows: Commencing at the intersection of the Hamilton-Brantford Highway with Paradise Road, said Paradise Road being the division line between Lots 20 and 21 in the aforesaid township; thence southerly following the division line to the road allowance between Concessions 3 and 4; thence easterly and following the aforesaid road allowance to the division line between Lots 19 and 20 of the aforesaid Township; thence southerly along the aforesaid division line between Lots 19 and 20 to the brow of the Mountain; thence westerly along the brow of the Mountain to the division line between the Townships of Ancaster and Barton; thence northerly along said division line to the present Hamilton-Brantford Highway; thence easterly along said Highway to the place of beginning.

THE ELECTORAL DISTRICT OF WINDSOR-WALKERVILLE—to consist of all that part of the City of Windsor, and the whole of the Town of Walkerville within the following limits: Commencing at a point on the centre line of Ouellette Avenue, in the City of Windsor, at its northern terminus; thence southerly along the centre line of Ouellette Avenue to Giles Boulevard; thence easterly along the centre line of Giles Boulevard to Howard Avenue; thence southerly along the centre line of Howard Avenue and proceeding in a straight line to the south boundary of the City of Windsor; thence easterly along the south boundaries of the City of Windsor and the Town of Walkerville to the easterly limit of the Town of Walkerville; thence northerly along the said easterly limit to the Detroit River; thence westerly along the bank of the said River to the place of beginning.

THE ELECTORAL DISTRICT OF WINDSOR-SANDWICH—to consist of that part of the City of Windsor and the whole of the Town of Sandwich within the following limits: Commencing at the northern terminus of the westerly limit of the Town of Sandwich; thence in a southerly direction along the said limit to the southerly limit of the said Town of Sandwich; thence easterly along the southern boundaries of the Town of Sandwich and the City of Windsor to a point from which a straight line may be drawn through the centre line of Howard Avenue in the City of Windsor; thence northerly in a straight line through the centre line of Howard Avenue to the intersection of Howard Avenue with Giles Boulevard; thence westerly along the centre line of Giles Boulevard to the centre line of Ouellette Avenue; thence northerly along the centre line of Ouellette Avenue to the Detroit River; thence westerly along the bank of the said River to the place of beginning; the Township of Sandwich West, and the Towns of LaSalle and Ojibway.

THE ELECTORAL DISTRICT OF YORK EAST—to consist of the Townships of Scarborough, East York, and Markham and that portion of the Township of North York lying east of the centre line of Yonge Street, the Town of Leaside, and the Villages of Markham and Stouffville.

THE ELECTORAL DISTRICT OF YORK NORTH—to consist of the Townships of King, Whitchurch, Georgina, Gwillimbury North, Gwillimbury East, Vaughan and that portion of the Township of North York lying west of the centre line of Yonge Street, the Towns of Aurora and Newmarket, and the Villages of Sutton West, Richmond Hill and Woodbridge.

THE ELECTORAL DISTRICT OF YORK SOUTH—to consist of all that portion of the Township of York not included in the Electoral District of West York, and the Village of Forest Hill.

THE ELECTORAL DISTRICT OF YORK WEST—to consist of all that portion of the Township of York lying west of a line drawn as follows: Commencing at the limits of the City of Toronto at the intersection of the centre line of Weston Road and the centre line of Northlands Avenue; thence northerly along the centre line of Weston Road to its intersection with Lambton Avenue; thence westerly along the centre line of Lambton Avenue to the Humber River, the Township of Etobicoke, the Towns of Mimico, New Toronto, Weston, and the Village of Long Branch.

THE ELECTORAL DISTRICT OF BEACHES—to consist of that part of the City of Toronto bounded as follows: On the north by the north limit of the said city; on the south by the waters of Lake Ontario; on the east by the eastern limit of the said city, and on the west by the centre line of Woodbine Avenue and Woodbine Avenue produced southerly to the waters of Lake Ontario.

THE ELECTORAL DISTRICT OF BELLWOODS—to consist of that part of the City of Toronto bounded as follows: Commencing at a point where the western boundary of the Island intersects the centre line of Tecumseh Street, produced south; thence northerly along the centre line of Tecumseh Street to Palmerston Avenue; thence along the centre line of Palmerston Avenue to the centre line of Bloor Street; thence easterly along the centre line of Bloor Street to the centre line of Bathurst Street; thence north along the centre line of Bathurst Street to the centre line of the Canadian Pacific Railway tracks; thence easterly along the centre line of the Canadian Pacific Railway tracks to the centre line of Spadina Road; thence north along the centre line of Spadina Road and Spadina Road produced to the city limits; thence westerly along the city limits and southerly along the city limits and westerly along the city limits to intersection with the centre line of Christie Street, produced northerly; thence southerly and along the centre line of Christie Street to the centre line of Bloor Street; thence westerly along the centre line of Bloor Street to the centre line of Crawford Street; thence southerly along the centre line of Crawford Street to the centre line of King Street; thence easterly along the centre line of King Street to the centre line of Strachan Avenue; thence southerly along the centre line of Strachan Avenue and Strachan Avenue produced, to the waters of Lake Ontario; thence easterly along the waters of Lake Ontario to the place of beginning.

THE ELECTORAL DISTRICT OF BRACONDALE—to consist of that part of the City of Toronto bounded as follows: On the north by the city limits; on the south by the waters of Lake Ontario and on the east by an imaginary line drawn from the waters of Lake Ontario to the intersection of Strachan Avenue; thence along the centre line of Strachan Avenue to King Street; thence west along the centre line of King Street to Crawford Street; thence along centre line of Crawford Street to Bloor Street; thence easterly along centre line of Bloor Street to the intersection of Christie Street; thence north along centre line of Christie Street to the north city limits. It is bounded on the west by an imaginary line from Lake Ontario to

Atlantic Avenue; thence north along centre line of Atlantic Avenue to King Street; thence north from King Street to Dovercourt Road; thence north along centre line of Dovercourt Road to Davenport Road; thence east on centre line of Davenport Road to Oakwood Avenue; thence north on centre line of Oakwood Avenue to city limits.

THE ELECTORAL DISTRICT OF DOVERCOURT—to consist of that part of the City of Toronto bounded as follows: On the north by the city limits; on the south by the waters of Lake Ontario and on the east by an imaginary line running from the waters of Lake Ontario to the intersection of Atlantic Avenue; thence along the centre line of Atlantic Avenue to Dovercourt Road; thence along the centre line of Dovercourt Road to Davenport Road; thence easterly on centre line of Davenport Road to Oakwood Avenue; thence along centre line of Oakwood Avenue to northern city limits. It is bounded on the west by an imaginary line drawn from the waters of Lake Ontario to the intersection of Spencer Avenue; thence along the centre line of Spencer Avenue to King Street; thence easterly along the centre line of King Street to Elm Grove Avenue; thence north along the centre line of Elm Grove Avenue to Queen Street; thence west on centre line of Queen Street to Brock Avenue; thence north on centre line of Brock Avenue to Wallace Avenue; thence west on centre line of Wallace Avenue to Lansdowne Avenue; thence north along centre line of Lansdowne Avenue to St. Clair Avenue; thence west along centre line of St. Clair Avenue to western limits of Prospect Cemetery; thence north to city limits, not including McRoberts Avenue.

THE ELECTORAL DISTRICT OF EGLINTON—to consist of that part of the City of Toronto now known as Ward 9.

THE ELECTORAL DISTRICT OF HIGH PARK—to consist of that part of the City of Toronto now known as Ward 7, together with that portion of Ward 6 of said City described as follows: Commencing at the intersection of the centre line of Lansdowne Avenue with the Canadian Pacific Railway; thence northerly along said centre line of Lansdowne Avenue to St. Clair Avenue; thence westerly along the centre line of St. Clair Avenue to the westerly limit of Prospect Cemetery; thence northerly along last-mentioned limit to the northerly limit of said city; thence westerly along last-mentioned limit to its intersection with the centre line of the Canadian Northern Railway, formerly the Northern Division of the Grand Trunk Railway System; thence southerly along the centre line of the said Railway to its intersection with the centre line of the Canadian Pacific Railway; thence easterly along last-mentioned railway to the place of beginning.

THE ELECTORAL DISTRICT OF PARKDALE—to consist of that part of the City of Toronto bounded as follows: On the south by the waters of Lake Ontario; on the north by the centre line of Bloor Street from the intersection of Clendennan Avenue easterly to the boundary between Ward 6 and Ward 7; thence northerly along the centre line of the division between Ward 6 and Ward 7 to Humberside Avenue; thence east along the centre line of Humberside Avenue to Canadian Pacific Railway; thence north on Canadian Pacific Railway to the intersection of the Canadian Pacific Railway line running east and west; thence easterly on the said Canadian Pacific Railway line to intersection of Lansdowne Avenue. It is bounded on the east by an imaginary line from the waters of Lake Ontario to the intersection of Spencer Avenue; thence northerly along the centre line of Spencer Avenue to King Street; thence east along the centre line of King Street to Elm Grove Avenue; thence north along the centre line of

Elm Grove Avenue to Queen Street; thence west on the centre line of Queen Street to Brock Avenue; thence north along the centre line of Brock Avenue to Wallace Avenue; thence west along the centre line of Wallace Avenue to Lansdowne Avenue; thence north along the centre line of Lansdowne Avenue to Canadian Pacific Railway track. It is bounded on the west by the city limits from Lake Ontario to the intersection of Clendennan Avenue and Bloor Street.

THE ELECTORAL DISTRICT OF RIVERDALE—to consist of that part of the City of Toronto bounded as follows: On the east by a line drawn from the waters of Lake Ontario extending north along the centre line of Berkshire Avenue, produced southerly to a point at intersection with the southern boundary of Eastern Avenue; thence along the centre line of Berkshire Avenue to the centre line of Queen Street; thence easterly along the centre line of Queen Street to intersection with the centre line of Jones Avenue; thence north along the centre line of Jones Avenue to the centre line of Danforth Avenue; thence easterly along the centre line of Danforth Avenue to the centre line of Dewhurst Avenue; thence north along the centre line of Dewhurst Avenue to the city limits; bounded on the north by the limits of the said city; bounded on the west by the Don roadway and the said roadway produced southerly to intersection with the waters of Lake Ontario to a point intersecting the Don River; thence following the centre line of the Don River to the northern city limits; and bounded on the south by the waters of Lake Ontario.

THE ELECTORAL DISTRICT OF ST. ANDREW—to consist of that part of the City of Toronto bounded as follows: Commencing at a point on the northern boundary of the waters of Toronto Bay where the centre line of Peter Street, produced southerly intersects said waters; thence westerly along the northern boundaries of the waters of said Toronto Bay to intersection with the northern boundary of the western channel; thence westerly along the said northern boundary to intersection with the western boundary of the Island; thence north-westerly along said western boundary to intersection with the centre line of Tecumseh Street, produced southerly; thence north from the centre line of Tecumseh Street to Palmerston Avenue; thence along the centre line of Palmerston Avenue to the centre line of Bloor Street; thence east on the centre line of Bloor Street to the centre line of Bathurst Street; thence north on the centre line of Bathurst Street to the centre line of the Canadian Pacific Railway tracks; thence east on the centre line of the Canadian Pacific Railway tracks to the centre of Spadina Road; thence southerly along the centre line of Spadina Road to the centre line of Bloor Street; thence easterly along the centre line of Bloor Street to the centre line of Huron Street; thence southerly along the centre line of Huron Street to the centre line of Phoebe Street; thence easterly along the centre line of Phoebe Street to the centre line of Soho Street; thence southerly along the centre line of Soho Street to the centre line of Queen Street; thence westerly along the centre line of Queen Street to the centre line of Peter Street; thence southerly along the centre line of Peter Street and Peter Street produced southerly to the place of beginning.

THE ELECTORAL DISTRICT OF ST. DAVID—to consist of that part of the City of Toronto bounded as follows: Commencing at a point where the Don roadway, produced southerly intersects the waters of Lake Ontario; thence northerly along said Don roadway and Don roadway produced to intersection with the Don River; thence along the centre of Don River to northern city limits; thence westerly along said northern

city limits to intersection with the centre line of the belt line railway; thence northerly and north-westerly and westerly following the centre line of said belt line railway to intersection with the centre line of Yonge Street; thence southerly along the centre line of Yonge Street to the ravine crossing Yonge Street, nearly opposite Walmsley Boulevard; thence south-easterly following the centre of said ravine to intersection with the centre line of the Canadian Pacific Railway; thence easterly along said centre line of the Canadian Pacific Railway to intersection with the centre line of MacLennan Avenue; thence southerly along the centre line of MacLennan Avenue to the centre line of Schofield Avenue; thence southerly along the centre line of Schofield Avenue to the centre line of Highland Avenue; thence south-easterly along the centre line of Highland Avenue to the centre line of Glen Road; thence southerly along the centre line of Glen Road to the centre line of South Drive; thence westerly along the centre line of South Drive to intersection with the centre line of Sherbourne Street; thence southerly along the centre line of Sherbourne Street and Sherbourne Street produced to the northern boundary of Toronto Bay; thence south-easterly in a straight line to the centre of the northerly end of the eastern channel; thence continuing south-easterly along the centre line of the eastern channel to the waters of Lake Ontario; thence easterly along the edge of the waters of Lake Ontario to the place of beginning.

THE ELECTORAL DISTRICT OF ST. GEORGE—to consist of that part of the City of Toronto bounded as follows: Commencing at a point where the northern boundary of the waters of Toronto Bay are intersected by the centre line of Sherbourne Street produced southerly; thence northerly along the said Sherbourne Street and Sherbourne Street produced southerly to intersection with the centre line of South Drive; thence easterly along the centre line of South Drive to intersection with the centre line of Glen Road; thence northerly along the centre line of Glen Road to intersection with the centre line of Highland Avenue; thence north-westerly along the centre line of Highland Avenue to the centre line of Schofield Avenue; thence northerly along the centre line of Schofield Avenue to intersection with the centre line of MacLennan Avenue; thence northerly along the centre line of MacLennan Avenue to the centre line of the Canadian Pacific Railway; thence westerly along the centre line of the Canadian Pacific Railway to intersection with the Ravine; thence north-westerly along the centre line of the Ravine to intersection with the centre line of Yonge Street; thence northerly along the centre line of Yonge Street to the centre line of the belt line railway; thence north-westerly along the centre line of the belt line railway to the city limits; thence southerly, easterly, southerly and westerly along the city limits to intersection with the centre line of Avenue Road produced northerly; thence southerly along the centre line of Avenue Road and Avenue Road produced northerly to the centre line of Davenport Road; thence easterly and south-easterly along the centre line of Davenport Road to intersection with the centre line of Bay Street; thence southerly along the centre line of Bay Street and Bay Street produced to the northern boundary of the waters of Toronto Bay; thence easterly along the northern boundary of the waters of Toronto Bay to the place of beginning.

THE ELECTORAL DISTRICT OF ST. PATRICK—to consist of that part of the City of Toronto bounded as follows: Commencing at a point where the waters of Lake Ontario are intersected by the centre line of the eastern channel; thence north-westerly along the centre line of the eastern channel to the centre at

the north boundary of said channel; thence north-westerly in a straight line to a point on the northern boundary of the waters of Toronto Bay intersected by the centre line of Sherbourne Street produced southerly; thence westerly along the northern boundary of the waters of Toronto Bay to intersection with the centre line of Bay Street produced southerly; thence northerly along the centre line of Bay Street and Bay Street produced southerly to intersection with the centre line of Davenport Road; thence north-westerly along the centre line of Davenport Road to centre line of Avenue Road; thence northerly along the centre line of Avenue Road and Avenue Road produced to the city limit; thence westerly along the northern boundary of the city limit to intersection with the centre line of Spadina Road, produced northerly; thence southerly along the centre line of Spadina Road to the centre line of Bloor Street; thence easterly along the centre line of Bloor Street to the centre line of Huron Street; thence southerly along the centre line of Huron Street to the centre line of Phoebe Street; thence easterly along the centre line of Phoebe Street to the centre line of Soho Street; thence southerly along the centre line of Soho Street to the centre line of Queen Street; thence westerly along the centre line of Queen Street to the centre line of Peter Street; thence southerly along the centre line of Peter Street and Peter Street produced southerly to the northern boundary of the waters of Toronto Bay; thence westerly following the northern boundary of the waters of Toronto Bay and along the northern boundary of the western channel to intersection with the western boundary of Toronto Island; thence southerly across the western channel and along the western boundary of said Island and along the waters of Lake Ontario and easterly along the southern boundary of said Island and along the waters of Lake Ontario to the place of beginning.

THE ELECTORAL DISTRICT OF WOODBINE—to consist of that part of the City of Toronto bounded as follows: On the east by the centre line of Woodbine Avenue, said centre line produced southerly to the waters of Lake Ontario; on the south by the waters of Lake Ontario; on the west by a line drawn from the waters of Lake Ontario, extending north along the centre line of Berkshire Avenue produced southerly to a point at intersection with the southern boundary of Eastern Avenue; thence along the centre line of Berkshire Avenue to the centre line of Queen Street; thence easterly along the centre line of Queen Street to intersection with the centre line of Jones Avenue; thence along centre line of Jones Avenue to intersection with the centre line of Danforth Avenue; thence easterly to intersection with the centre line of Dewhurst Avenue; thence north along said centre line of Dewhurst Avenue to the city limits and bounded on the north by the city limits. R.S.O. 1937, c. 6, Sched. A.



CHAPTER 341

The Rights of Labour Act

1. In this Act,

Interpre-
tation.

- (a) "collective bargaining agreement" means an agreement between an employer and a trade union setting forth terms and conditions of employment;
- (b) "trade union" means a combination, whether temporary or permanent, having among its objects the regulating of relations between employees and employers or between employees and employees or between employers and employers. 1944, c. 54, s. 1.

2. A trade union and the acts thereof shall not be deemed to be unlawful by reason only that one or more of its objects are in restraint of trade. 1944, c. 54, s. 2.

3.—(1) Any act done by two or more members of a trade union, if done in contemplation or furtherance of a trade dispute, shall not be actionable unless the act would be actionable if done without any agreement or combination.

Acts done by
two or more
members.

(2) A trade union shall not be made a party to any action in any court unless it may be so made a party irrespective of any of the provisions of this Act or of *The Labour Relations Act*.

Trade
union,
party to
action.

(3) A collective bargaining agreement shall not be the subject of any action in any court unless it may be the subject of such action irrespective of any of the provisions of this Act or of *The Labour Relations Act*. 1944, c. 54, s. 3; 1950, c. 70, s. 1 (1, 2).

Collective
bargaining
agreement,
subject of
action.

(4) Nothing in this Act shall be construed to prevent or otherwise affect the prosecution of a trade union or a member thereof under *The Labour Relations Act*. 1950, c. 70, s. 1 (3).

Prosecutions
under Rev.
Stat., c. 194,
not effective.

4. *The Reinstatement in Civil Employment Act, 1942* (Canada) shall apply in Ontario notwithstanding the termination of World War II, and notwithstanding the repeal thereof by the Parliament of Canada. 1944, c. 54, s. 4.

Applica-
tion of
1942, c. 31,
(Canada).

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CHAPTER 342

The Rural Hydro-Electric Distribution Act

1. Upon the recommendation of The Hydro-Electric Power Commission of Ontario and the order of the Lieutenant-Governor in Council, the Treasurer of Ontario may pay out of the Consolidated Revenue Fund to any commission or municipal corporation distributing power in a rural power district under *The Power Commission Act*, a sum not exceeding 50 per cent of the capital cost of acquiring and constructing in the rural power district, lands and works, including plant, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment, for the supply of power to any customer or premises up to the point of delivery by such commission or corporation. R.S.O. 1937, c. 64, s. 1; 1939, c. 41, s. 1.

Grants in aid of distribution works in rural power districts.

Rev. Stat., c. 281.

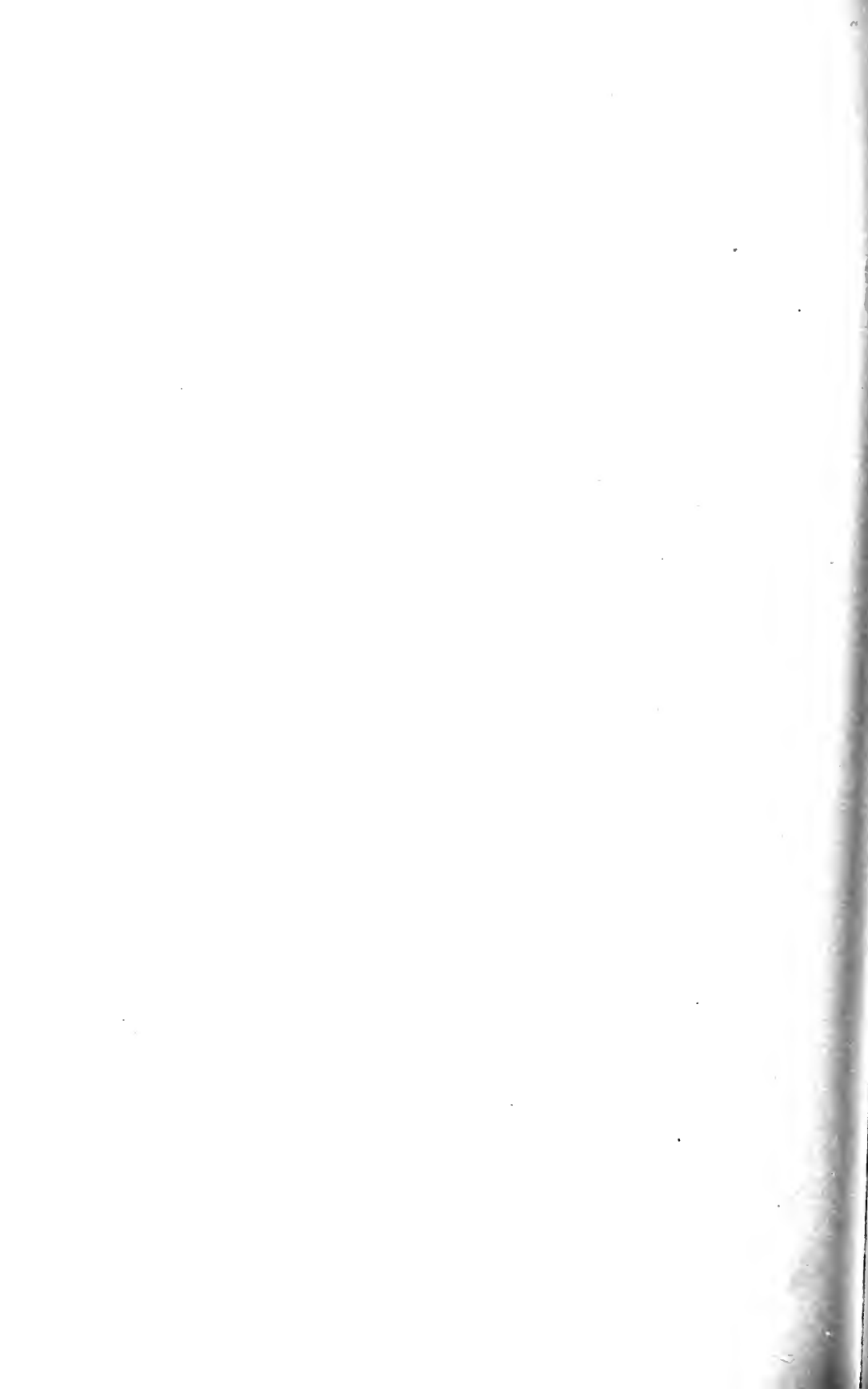
2. Upon the recommendation of The Hydro-Electric Power Commission of Ontario and the order of the Lieutenant-Governor in Council, the Treasurer of Ontario may pay out of the Consolidated Revenue Fund to the corporation of a township or of an urban municipality supplying or distributing electrical power or energy in an adjoining township or within a rural power district under *The Public Utilities Act* or any other general or special Act, a sum not exceeding 50 per cent of the capital cost of constructing or erecting in such adjoining township or rural power district primary transmission lines and cables, service transformers and meters and secondary lines on the highway required for the delivery of power or energy in such adjoining township or in such rural power district. R.S.O. 1937, c. 64, s. 2.

Grants in aid of works in townships or urban municipality adjoining township in rural power district.

Rev. Stat., c. 320.

3. All sums paid to any commission or municipal corporation under the authority of section 1 or section 2 shall be chargeable in the books of the Treasurer of Ontario as expenditure upon capital account. R.S.O. 1937, c. 64, s. 3; 1939, c. 41, s. 2.

Grants chargeable to capital account.



CHAPTER 343

The Rural Power District Loans Act

1. In this Act,

Interpreta-
tion.

- (a) "Commission" means The Hydro-Electric Power Commission of Ontario;
- (b) "regulations" means regulations made under this Act. R.S.O. 1937, c. 65, s. 1.

2.—(1) The Lieutenant-Governor in Council may set apart out of the Consolidated Revenue Fund a sum not exceeding \$2,000,000 for the purpose of providing advances towards the installation of electrical services in rural power districts.

Fund set
apart.

(2) The Lieutenant-Governor in Council may from time to time direct that such payments be made to the Commission out of the moneys so set apart as the Commission may report to be necessary in order to enable advances to be made under this Act.

Payments
out of fund
to Commis-
sion.

(3) Subject to the regulations the installation in respect of which aid may be granted under this Act shall include,

Installation
to include.

- (a) wiring from the transmission or distribution lines of the Commission into and throughout dwellings, barns, outhouses and any other works which may from time to time be specified in the regulations;
- (b) such transformers, motors and other appliances as may be necessary or expedient for any industrial, agricultural or domestic purposes or which may be specified in the regulations. R.S.O. 1937, c. 65, s. 2.

3.—(1) A person assessed as owner and being the actual owner of lands and premises in a rural power district desiring to procure an advance under this Act may make application, in the form prescribed by the regulations, to the Commission.

Application
for advance.

(2) The application shall not be acted upon unless it is accompanied by the declaration of the applicant stating that he is the actual owner of the lands and premises mentioned in the application and that they are free from encumbrance, or if the lands and premises, or any part thereof, are mortgaged or otherwise encumbered, stating the name and address of

Proofs to
accompany
application.

the mortgagee or encumbrancer, and where the mortgage or encumbrance has been assigned, the name and address of the assignee.

Notice to
encum-
brancers.

(3) Where it appears that there is a mortgage or encumbrance upon the lands or premises or any part thereof the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered letter sent to him by the secretary of the Commission to his last-known address. R.S.O. 1937, c. 65, s. 3.

Limit of
amount of
advance.

4. An advance under this Act shall not exceed in amount the sum of \$1,000 in the case of any one owner, and every advance shall be repayable with interest within 20 years at the furthest. R.S.O. 1937, c. 65, s. 4.

Control as
to installa-
tion and
specifica-
tions.

5. Every installation in respect of which an advance is made under this Act shall be made in such manner and according to such specifications as the Commission may prescribe and the work of installation shall be subject to the approval of the Commission and no advance shall be made under this Act except upon the recommendation of the Commission. R.S.O. 1937, c. 65, s. 5.

Repayment
of advance.

6.—(1) Every advance made under this Act shall be a debt due from the owner of the lands and premises upon which the installation is made to the Commission and shall be repayable to the Commission at the time and in such manner as may be prescribed by the regulations, and the amounts so received by the Commission shall be transmitted to the Treasurer of Ontario.

Default
in repayment
of advance.

(2) Where default is made in the repayment of any advance under this Act, or in any instalment thereof, or in the payment of interest thereon, the Commission may give notice in writing of such default to the clerk of the municipality in which the lands and premises are situate, and the amount in default shall thereupon be inserted in the collectors' roll as a tax in the same manner as in the case of municipal taxes, and when collected shall be paid over by the treasurer of the municipality to the Commission. R.S.O. 1937, c. 65, s. 6.

Registration
of notice
of lien.

7.—(1) The Commission shall cause a notice of the advance, in the form prescribed by the regulations, to be registered in the proper registry or land titles office and such registration shall be notice to subsequent purchasers or mortgagees or other encumbrancers that the advance made under this Act is a lien or charge upon the lands and premises owned by the applicant.

(2) Where notice has been registered under subsection 1 and the advance has been subsequently repaid, a certificate of repayment in the form prescribed by the regulations, may be delivered to the owner of the lands and premises and may be registered by him, and such registration shall have the effect of discharging the lien or charge.

Registration
of certificate
of
repayment.

(3) The fee for registering a notice or certificate of repayment under this section shall be 50 cents. R.S.O. 1937, c. 65, s. 7.

8.—(1) The property in any works installed in respect of which an advance is made under this Act shall, while such advance remains unpaid, be in the Commission, and in addition to any other remedy, in case of default in repayment of the advance, or of any instalment thereof, or in the payment of interest thereon, the Commission may by its officers, servants and agents enter upon the premises and take possession of and remove transformers, motors or other appliances or fixtures forming part of such installation.

Property in
works to be
in Commis-
sion until
advance
repaid.

(2) A chattel mortgage, lien note or other instrument registered or filed, or any judgment or other legal process shall not have priority over the lien created by an advance from the Commission under this Act. R.S.O. 1937, c. 65, s. 8.

Priority over
lien note,
etc.

9. The Lieutenant-Governor in Council may make regulations prescribing the terms and conditions upon which advances may be made under this Act and respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 65, s. 9.

Regulations.



CHAPTER 344

The Rural Power District Service Charge Act

1. Notwithstanding anything in any statute or municipal by-law or contract, the Lieutenant-Governor in Council, upon the recommendation of The Hydro-Electric Power Commission of Ontario, may from time to time make regulations fixing a maximum service charge for any class of service rendered by the Commission in a rural power district and also fixing the minimum number of consumers of different classes per mile of transmission line required for construction of works by the Commission in a rural power district or part thereof and may from time to time reduce or wholly remove any service charge previously fixed. 1938, c. 33, s. 2; 1944, c. 55, s. 1. Fixing maximum service charge, etc.

2.—(1) Where in any rural power district by reason of such maximum service charge having been fixed, reduced or removed or such minimum number of consumers having been fixed pursuant to section 1, the revenue derived by the Commission for any class of service rendered by it in the rural power district is not sufficient to meet the necessary cost of the service as specified by the Commission, the deficit shall be chargeable to and payable out of the Consolidated Revenue Fund. 1944, c. 55, s. 2 (1). Where deficit arises.

(2) Payments made out of the Consolidated Revenue Fund under subsection 1 on account of any rural power district shall be charged to that rural power district in a special account to be known as the Rural Power Service Suspense Account in the books of the Treasurer of Ontario and any surplus thereafter arising from any maximum service charge in that rural power district shall be paid over to the Treasurer of Ontario and placed to the credit of the rural power district in the suspense account until the deficit is extinguished. R.S.O. 1937 c. 66, s. 2 (2). Recouping Province out of subsequent surplus.

1871

1872

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CHAPTER 345

The Sale of Goods Act

1.—(1) In this Act,

Interpreta-
tion.

- (a) "action" includes counterclaim and set-off;
- (b) "buyer" means the person who buys or agrees to buy goods;
- (c) "contract of sale" includes an agreement to sell as well as a sale;
- (d) "delivery" means voluntary transfer of possession from one person to another;
- (e) "document of title" includes any bill of lading and warehouse receipt, as defined by *The Mercantile Law Amendment Act*, any warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or delivery, the possessor of the document to transfer or receive goods thereby represented; Rev. Stat., c. 231.
- (f) "fault" means wrongful act or default;
- (g) "goods" means all chattels personal other than things in action and money, and includes emblements, industrial growing crops, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;
- (h) "plaintiff" includes a defendant counterclaiming;
- (i) "property" means general property in goods and not merely a special property;
- (j) "quality of goods" includes their state or condition;
- (k) "sale" includes a bargain and sale as well as a sale and delivery;
- (l) "seller" means a person who sells or agrees to sell goods;
- (m) "specific goods" means goods identified and agreed upon at the time the contract of sale is made;

- (n) "warranty" means an agreement with reference to goods which are the subject of a contract of sale but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages, but not to a right to reject the goods and treat the contract as repudiated.

Things done
in good
faith.

- (2) A thing shall be deemed to be done in good faith within the meaning of this Act when it is in fact done honestly whether it be done negligently or not.

What
deemed
insolvency.

- (3) A person shall be deemed to be insolvent within the meaning of this Act, who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.

"Deliverable
state."

Impl. Act,
56 and 57
Vict., c. 71,
s. 62.

- (4) Goods shall be deemed to be in a "deliverable state" within the meaning of this Act when they are in such a state that the buyer would under the contract be bound to take delivery of them. R.S.O. 1937, c. 180, s. 1.

PART I

FORMATION OF THE CONTRACT

Sale and
agreement
to sell.

Impl. Act,
56 and 57
Vict., c. 71,
s. 1.

- 2.—(1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration, called the price, and there may be a contract of sale between one part owner and another.

Absolute or
conditional.

- (2) A contract of sale may be absolute or conditional.

What
constitutes
a sale or
agreement
to sell.

- (3) Where under a contract of sale the property in goods is transferred from the seller to the buyer the contract is called a sale; but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled the contract is called an agreement to sell.

When
agreement
becomes
sale.

- (4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred. R.S.O. 1937, c. 180, s. 2.

Capacity.

- 3.—(1) Capacity to buy and sell is regulated by the general law concerning capacity to contract, and to transfer and acquire property; provided that where necessities are sold and delivered to an infant or minor or to a person who by reason of mental incapacity or drunkenness is incompetent to contract, he must pay a reasonable price therefor.

Impl. Act,
56 and 57
Vict., c. 71,
s. 2.

(2) Necessaries in this section mean goods suitable to the conditions in life of such infant or minor or other person, and to his actual requirements at the time of the sale and delivery. What deemed necessities.
R.S.O. 1937, c. 180, s. 3.

4. Subject to the provisions of this Act and of any statute in that behalf a contract of sale may be made in writing, either with or without seal, or by word of mouth or partly in writing and partly by word of mouth, or may be implied from the conduct of the parties; provided that nothing in this section shall affect the law relating to corporations. R.S.O. 1937, c. 180, s. 4. Contract, how made. Impl. Act, 56 and 57, Vict., c. 71, s. 3.

5.—(1) A contract for the sale of any goods of the value of \$40 or upwards shall not be enforceable by action unless the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the contract or in part payment, or unless some note or memorandum in writing of the contract is made and signed by the party to be charged or his agent in that behalf. Contracts for \$40 or upwards. Impl. Act, 56 and 57, Vict., c. 71, s. 4.

(2) This section shall apply to every such contract, notwithstanding that the goods may be intended to be delivered at some future time, or may not at the time of such contract be actually made, procured, or provided, or fit or ready for delivery, or some act may be requisite for the making or completing thereof, or rendering the same fit for delivery. Future delivery.

(3) There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods which recognizes a pre-existing contract of sale, whether there be an acceptance in performance of the contract or not. R.S.O. 1937, c. 180, s. 5. Acceptance of goods, what constitutes.

6.—(1) The goods which form the subject of a contract of sale may be either existing goods owned or possessed by the seller, or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Act called "future goods". What goods may be subject of contract.

(2) There may be a contract for the sale of goods, the acquisition of which by the seller depends upon a contingency which may or may not happen. Contingency as to acquisition of goods by vendor.

(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods. R.S.O. 1937, c. 180, s. 6. Sale of future goods. Impl. Act, 56 and 57, Vict., c. 71, s. 5.

7. Where there is a contract for the sale of specific goods, and the goods without the knowledge of the seller have perished. Goods which have perished.

Impl. Act,
56 and 57
Vict., c. 71,
s. 6.

ished at the time when the contract is made, the contract is void. R.S.O. 1937, c. 180, s. 7.

Goods
perishing
before sale
but after
agreement
to sell.

Impl. Act,
56 and 57
Vict., c. 71,
s. 7.

8. Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer, perish before the risk passes to the buyer, the agreement is thereby avoided. R.S.O. 1937, c. 180, s. 8.

Price
determined.

Impl. Act,
56 and 57
Vict., c. 71,
s. 8.

9.—(1) The price in a contract of sale may be fixed by the contract, or may be left to be fixed in manner thereby agreed, or may be determined by the course of dealing between the parties.

Where
price not
determined.

(2) Where the price is not determined in accordance with the foregoing provisions the buyer must pay a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case. R.S.O. 1937, c. 180, s. 9.

Agreement
to sell at
valuation.

Impl. Act,
56 and 57
Vict., c. 71,
s. 9.

10.—(1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party, and the third party cannot or does not make the valuation the agreement is avoided; provided that if the goods or any part thereof have been delivered to and appropriated by the buyer he must pay a reasonable price therefor.

Valuation
prevented
by act of
party.

(2) Where the third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault. R.S.O. 1937, c. 180, s. 10.

Stipulations
as to time.

Impl. Act,
56 and 57
Vict., c. 71,
s. 10.

11. Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale, and whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract. R.S.O. 1937, c. 180, s. 11.

When
condition
to be
treated a
warranty.

12.—(1) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition, or may elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

Stipulation
which may be
condition or
warranty.

Impl. Act,
56 and 57
Vict., c. 71,
s. 11.

(2) Whether a stipulation in a contract of sale is a condition, the breach of which may give rise to a right to treat the contract as repudiated, or a warranty, the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated, depends

in each case on the construction of the contract, and a stipulation may be a condition, though called a warranty in the contract.

(3) Where a contract of sale is not severable, and the buyer has accepted the goods, or part thereof, or where the contract is for specific goods, the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there be a term of the contract, express or implied, to that effect.

Where breach of condition to be treated as breach of warranty.

(4) Nothing in this section shall affect the case of any condition or warranty, fulfillment of which is excused by law by reason of impossibility or otherwise. R.S.O. 1937, c. 180, s. 12.

Fulfillment excused by impossibility.

13. In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is,

Implied conditions and warranties.

- (a) an implied condition on the part of the seller that in the case of a sale he has a right to sell the goods, and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass;
- (b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods; and
- (c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party, not declared or known to the buyer before or at the time when the contract is made.

Impl. Act, 56 and 57 Vict., c. 71, s. 12.

R.S.O. 1937, c. 180, s. 13.

14. Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description, and if the sale is by sample, as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description. R.S.O. 1937, c. 180, s. 14.

Sale by description. Impl. Act, 56 and 57 Vict., c. 71, s. 13.

15. Subject to the provisions of this Act and of any statute in that behalf, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows:

Implied conditions as to quality or fitness.

- (a) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required so as to show that the

Impl. Act, 56 and 57 Vict., c. 71, s. 14.

buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he be the manufacturer or not), there is an implied condition that the goods shall be reasonably fit for such purpose; provided that in the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose.

- (b) Where goods are bought by description from the seller who deals in goods of that description (whether he be the manufacturer or not), there is an implied condition that the goods shall be of merchantable quality; provided that if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed.
- (c) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.
- (d) An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith. R.S.O. 1937, c. 180, s. 15.

Sale by
sample.

16.—(1) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

Implied
conditions.

(2) In the case of a contract for sale by sample,

Impl. Act,
56 and 57
Vict., c. 71,
s. 15.

- (a) there is an implied condition that the bulk shall correspond with the sample in quality;
- (b) there is an implied condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample; and
- (c) there is an implied condition that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample. R.S.O. 1937, c. 180, s. 16.

PART II

EFFECTS OF THE CONTRACT

Goods
must be
ascertained.
Impl. Act,
56 and 57
Vict., c. 71,
s. 16.

17. Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained. R.S.O. 1937, c. 180, s. 17.

18.—(1) Where there is a contract for the sale of specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

Property passes where intended to pass.

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

Ascertaining intention.

Impl. Act, 56 and 57 Vict., c. 71, s. 17.

19. Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer:

Rules for ascertaining intention.

Impl. Act, 56 and 57 Vict., c. 71, s. 18.

Rule 1.—Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment or the time of delivery or both be postponed.

Rule 2.—Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done, and the buyer has notice thereof.

Rule 3.—Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

Rule 4.—When goods are delivered to the buyer on approval or “on sale or return” or other similar terms, the property therein passes to the buyer:

- (i) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction;
- (ii) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time, and what is a reasonable time is a question of fact.

Rule 5.—(i) Where there is a contract for the sale of unascertained or future goods by description, and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer, or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer, and such assent may be expressed or implied, and may be given either before or after the appropriation is made;

(ii) where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not), for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract.
R.S.O. 1937, c. 180, s. 19.

Reservation
of right of
disposal.

Impl. Act,
56 and 57
Vict., c. 71,
s. 19.

20.—(1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled, and in such case, notwithstanding the delivery of the goods to the buyer, or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

Goods
deliverable
to order
of seller.

(2) Where goods are shipped, and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is *prima facie* deemed to reserve the right of disposal.

Where seller
draws on
buyer and
sends draft
with bill of
lading.

(3) Where the seller of goods draws on the buyer for the price, and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment, of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange, and if he unlawfully retains the bill of lading the property in the goods does not pass to him. R.S.O. 1937, c. 180, s. 20.

Risk
prima facie
passes with
property.

Impl. Act,
56 and 57
Vict., c. 71,
s. 20.

21. Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not, provided,

(a) that where delivery has been delayed through the fault of either the buyer or seller, the goods are

at the risk of the party in fault as regards any loss which might not have occurred but for such fault;

- (b) that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party. R.S.O. 1937, c. 180, s. 21.

22. Subject to this Act, where goods are sold by a person who is not the owner thereof, and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell; provided that nothing in this Act shall affect,

Sale by person other than owner.
Impl. Act, 56 and 57
Vict., c. 71, s. 21.

- (a) the provisions of *The Factors Act* or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof;
- (b) the validity of any contract of sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction. R.S.O. 1937, c. 180, s. 22.
- Rev. Stat., o. 125.

23. The law relating to market overt shall not apply to any sale of goods which takes place in Ontario. R.S.O. 1937, c. 180, s. 23.

Law as to market overt not to apply.

(NOTE.—*As to sales in market overt, see Impl. Act, 56 and 57 Vict., c. 71, s. 22.*)

24. When the seller of goods has a voidable title thereto but his title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defective title. R.S.O. 1937, c. 180, s. 24.

Sale under voidable title.
Impl. Act, 56 and 57
Vict., c. 71, s. 23.

25.—(1) Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof, to any person receiving the same in good faith and without notice of the previous sale, shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same.

Seller in possession after sale.
Impl. Act, 56 and 57
Vict., c. 71, s. 25.

(2) Where a person having bought or agreed to buy goods obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting

Buyer in possession after sale.

for him, of the goods or documents of title, under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods, shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

Interpre-
tation.

(3) In this section, "mercantile agent" means a mercantile agent having, in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale, or to buy goods, or to raise money on the security of goods. R.S.O. 1937, c. 180, s. 25.

PART III

PERFORMANCE OF THE CONTRACT

Duties of
seller and
buyer.

Impl. Act,
56 and 57
Vict., c. 71,
s. 27.

26. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the contract of sale. R.S.O. 1937, c. 180, s. 26.

Payment
and delivery
concurrent.

Impl. Act,
56 and 57
Vict., c. 71,
s. 28.

27. Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer must be ready and willing to pay the price in exchange for possession of the goods. R.S.O. 1937, c. 180, s. 27.

Rules as to
delivery.

Impl. Act,
56 and 57
Vict., c. 71,
s. 29.

28.—(1) Whether it is for the buyer to take possession of the goods, or for the seller to send them to the buyer, is a question depending in each case on the contract, express or implied, between the parties, and apart from any such contract, express or implied, the place of delivery is the seller's place of business, if he has one, and if not, his residence; provided that if the contract is for the sale of specific goods which to the knowledge of the parties, when the contract is made, are in some other place, then that place is the place of delivery.

Where no
time for
delivery
fixed.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

Where
goods in
possession
of third
person.

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by the seller to the buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf; provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour, and what is a reasonable hour is a question of fact. Demand or tender of delivery.

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods in a deliverable state must be borne by the seller. R.S.O. 1937, c. 180, s. 28. Expenses of putting goods in deliverable state.

29.—(1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered he must pay for them at the contract rate. Delivery of wrong quantity. Impl. Act, 56 and 57 Vict., c. 71, s. 30.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract, and reject the rest, or he may reject the whole, and if the buyer accepts the whole of the goods so delivered he must pay for them at the contract rate. Where quantity larger than contracted for.

(3) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or he may reject the whole. Goods not in accordance with contract.

(4) This section is subject to any usage of trade, special agreement or course of dealing between the parties. R.S.O. 1937, c. 180, s. 29. Exceptions as to trade customs, etc.

30.—(1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments. Delivery by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for, and the seller makes defective deliveries in respect of one or more instalments, or fails to deliver one or more instalments, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case whether the breach of contract is a repudiation of the whole contract, or whether it is a severable breach giving rise to a claim for compensation but not to a right to treat the whole contract as repudiated. R.S.O. 1937, c. 180, s. 30. Where instalments are not delivered as contracted for. Impl. Act, 56 and 57 Vict., c. 71, s. 31.

31.—(1) Where, in pursuance of a contract of sale, the seller is authorized or required to send the goods to the buyer, the delivery of the goods to a carrier whether named by the buyer or not, for the purpose of transmission to the buyer, is *prima facie* deemed to be a delivery of the goods to the buyer. Delivery to carrier.

Seller's
contract
with
carrier.

Impl. Act,
56 and 57
Vict., c. 71,
s. 32.

(2) Unless otherwise authorized by the buyer, the seller must make such contract with the carrier on behalf of the buyer as may be reasonable, having regard to the nature of the goods and the other circumstances of the case, and if the seller omits so to do, and the goods are lost or damaged in course of transit, the buyer may decline to treat the delivery to the carrier as a delivery to himself or may hold the seller responsible in damages. R.S.O. 1937, c. 180, s. 31.

Agreement
for delivery
elsewhere
than at
place of
sale.

Impl. Act,
56 and 57
Vict., c. 71,
s. 33.

32. Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer must nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit. R.S.O. 1937, c. 180, s. 32.

Right of
buyer as
to examina-
tion.

Impl. Act,
56 and 57
Vict., c. 71,
s. 34.

33.—(1) Where goods are delivered to the buyer which he has not previously examined, he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

Seller to
afford op-
portunity
for exam-
ination.

(2) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract. R.S.O. 1937, c. 180, s. 33.

Acceptance
of goods.

Impl. Act,
56 and 57
Vict., c. 71,
s. 35.

34. The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them. R.S.O. 1937, c. 180, s. 34.

Effect of
refusal to
accept.

Impl. Act,
56 and 57
Vict., c. 71,
s. 36.

35. Unless otherwise agreed, where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them. R.S.O. 1937, c. 180, s. 35.

Wrongful
neglect or
refusal to
take
delivery.

Impl. Act,
56 and 57
Vict., c. 71,
s. 37.

36. When the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not, within a reasonable time after such request, take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods, provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take

delivery amounts to a repudiation of the contract. R.S.O. 1937, c. 180, s. 36.

PART IV

RIGHTS OF UNPAID SELLER AGAINST THE GOODS

37.—(1) The seller of goods is deemed to be an “unpaid seller” within the meaning of this Act,

Interpretation.

Impl. Act, 56 and 57 Vict., c. 71, s. 38.

- (a) when the whole of the price has not been paid or tendered;
- (b) when a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this Part, “seller” includes any person who is in the position of a seller, as for instance, an agent of the seller to whom the bill of lading has been endorsed, or a consignor or agent who has himself paid or is directly responsible for the price. R.S.O. 1937, c. 180, s. 37.

38.—(1) Subject to the provisions of this Act and of any statute in that behalf, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law,

Rights of unpaid seller.

Impl. Act, 56 and 57 Vict., c. 71, s. 39.

- (a) a lien on the goods or right to retain them for the price while he is in possession of them;
- (b) in case of the insolvency of the buyer, a right of stopping the goods in transitu after he has parted with the possession of them;
- (c) a right of re-sale as limited by this Act.

lien;

stoppage in transitu;

re-sale.

(2) Where the property in goods has not passed to the buyer the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with the rights of lien and stoppage in transitu where the property has passed to the buyer. R.S.O. 1937, c. 180, s. 38.

Withholding delivery.

39.—(1) Subject to this Act, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases:

Unpaid seller's lien.

Impl. Act, 56 and 57 Vict., c. 71, s. 41.

- (a) where the goods have been sold without any stipulation as to credit;
- (b) where the goods have been sold on credit but the term of credit has expired;

(c) where the buyer becomes insolvent.

Seller in possession as agent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer. R.S.O. 1937, c. 180, s. 39.

Where part delivery has been made.

Impl. Act, 56 and 57 Vict., c. 71, s. 42.

40. Where an unpaid seller has made part delivery of the goods he may exercise his right of lien or retention on the remainder unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention. R.S.O. 1937, c. 180, s. 40.

Termination of lien.

Impl. Act, 56 and 57 Vict., c. 71, s. 43.

41.—(1) The unpaid seller of goods loses his lien or right of retention thereon,

- (a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;
- (b) when the buyer or his agent lawfully obtains possession of the goods;
- (c) by waiver thereof.

Lien not lost by obtaining judgment for price.

(2) The unpaid seller of goods having a lien or right of retention thereon, does not lose his lien or right of retention by reason only that he has obtained judgment for the price of the goods. R.S.O. 1937, c. 180, s. 41.

Right of stoppage in transitu.

Impl. Act, 56 and 57 Vict., c. 71, s. 44.

42. Subject to this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods, has the right of stopping them in transitu, that is to say he may resume possession of the goods as long as they are in course of transit, and may retain them until payment or tender of the price. R.S.O. 1937, c. 180, s. 42.

Duration of transit.

Impl. Act, 56 and 57 Vict., c. 71, s. 45.

43.—(1) Goods are deemed to be in course of transit from the time when they are delivered to a carrier by land or water or other bailee, for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

Buyer obtaining delivery.

(2) If the buyer or his agent in that behalf, obtains delivery of the goods before their arrival at the appointed destination, the transit is at an end.

Carrier holding goods to buyer's order.

(3) If, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer, or his agent, the transit is at an end, and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them, the transit is not deemed to be at an end even if the seller has refused to receive them back. Rejected goods.

(5) When goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case, whether they are in the possession of the master as a carrier, or as agent to the buyer. Ship chartered by buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer, or his agent in that behalf, the transit is deemed to be at an end. Wrongful refusal to deliver.

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf, the remainder of the goods may be stopped in transitu unless such part delivery has been made under such circumstances as to show an agreement to give up possession of the whole of the goods. R.S.O. 1937, c. 180, s. 43. Where part delivery has been made.

44.—(1) The unpaid seller may exercise his right of stoppage in transitu either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are, and such notice may be given either to the person in actual possession of the goods or to his principal, and in the latter case the notice to be effectual, must be given at such time and under such circumstances that the principal, by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer. How right may be exercised. Impl. Act, 56 and 57 Vict., c. 71, s. 46.

(2) When notice of stoppage in transitu is given by the seller to the carrier or other bailee in possession of the goods, he must re-deliver the goods to or according to the directions of the seller, and the expenses of such re-delivery must be borne by the seller. R.S.O. 1937, c. 180, s. 44. Re-delivery after notice to carrier, etc.

45. Subject to this Act, the unpaid seller's right of lien or retention or stoppage in transitu is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto; provided that, where a document of title to goods has been lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for valuable consideration, then, if the last-mentioned transfer was by way of sale the unpaid seller's right of lien or retention or stoppage in transitu is defeated, and if the last-mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or Effect of subsale or pledge by buyer. Impl. Act, 56 and 57 Vict., c. 71, s. 47.

retention or stoppage in transitu can only be exercised subject to the rights of the transferee. R.S.O. 1937, c. 180, s. 45.

Exercise of
right of
lien or
stoppage,
effect on
contract.

46.—(1) Subject to this section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage in transitu.

Title of
buyer on
re-sale.

(2) Where an unpaid seller who has exercised his right of lien or retention or stoppage in transitu, re-sells the goods, the buyer acquires a good title thereto as against the original buyer.

Re-sale and
right to
damages
for breach
of contract.

(3) Where the goods are of a perishable nature, or where the unpaid seller gives notice to the buyer of his intention to re-sell, and the buyer does not, within a reasonable time, pay or tender the price, the unpaid seller may re-sell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract.

Where
re-sale
rescinds
contract.

(4) Where the seller expressly reserves a right of re-sale in case the buyer should make default, and on the buyer making default, re-sells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim the seller may have for damages. R.S.O. 1937, c. 180, s. 46.

Impl. Act,
56 and 57
Vict., c. 71,
s. 48.

PART V

ACTIONS FOR BREACH OF THE CONTRACT

Seller may
maintain
action for
price.

47.—(1) Where, under a contract of sale, the property in the goods has passed to the buyer, and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may maintain an action against him for the price of the goods.

Impl. Act,
56 and 57
Vict., c. 71,
s. 49.

Where
property
in goods
has not
passed.

(2) Where, under a contract of sale, the price is payable on a day certain, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay the price, the seller may maintain an action for the price although the property in the goods has not passed, and the goods have not been appropriated to the contract. R.S.O. 1937, c. 180, s. 47.

Action for
non-accept-
ance.

48.—(1) Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may maintain an action against him for damages for non-acceptance.

Measure of
damages.

(2) The measure of damages is the estimated loss directly and naturally resulting, in the ordinary course of events, from the buyer's breach of contract.

Difference
in price.

(3) Where there is an available market for the goods in question, the measure of damages is *prima facie* to be ascer-

tained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted, or, if no time was fixed for acceptance, then at the time of the refusal to accept. R.S.O. 1937, c. 180, s. 48.

49.—(1) Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may maintain an action against the seller for damages for non-delivery.

Impl. Act,
56 and 57
Vict., c. 71,
s. 50.

Buyer may
maintain
action for
damages for
non-delivery.

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events, from the seller's breach of contract.

Measure of
damages.

(3) Where there is an available market for the goods in question, the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered, or, if no time was fixed, then at the time of the refusal to deliver. R.S.O. 1937, c. 180, s. 49.

Difference
in price.

Impl. Act,
56 and 57
Vict., c. 71,
s. 51.

50. In any action for breach of contract to deliver specific or ascertained goods, the court may, if it thinks fit, direct that the contract shall be performed specifically, without giving the defendant the option of retaining the goods on payment of damages, and may impose such terms and conditions as to damages, payment of the price, and otherwise, as to the court may seem just. R.S.O. 1937, c. 180, s. 50.

Specific per-
formance.

Impl. Act,
56 and 57
Vict., c. 71,
s. 52.

51.—(1) Where there is a breach of warranty by the seller, or where the buyer elects, or is compelled, to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods, but he may,

Breach of
warranty.

Impl. Act,
56 and 57
Vict., c. 71,
s. 53.

(a) set up against the seller the breach of warranty in diminution or extinction of the price; or

(b) maintain an action against the seller for damages for the breach of warranty.

(2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events, from the breach of warranty.

Measure of
damages.

(3) In the case of breach of warranty of quality such loss is *prima facie* the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

Breach of
warranty
as to
quality.

Right of
action.

(4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage. R.S.O. 1937, c. 180, s. 51.

Other rights
of buyer
preserved.

Impl. Act,
56 and 57
Vict., c. 71,
s. 54.

52. Nothing in this Act shall affect the right of the buyer or the seller to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover money paid where the consideration for the payment of it has failed. R.S.O. 1937, c. 180, s. 52.

PART VI

SUPPLEMENTARY

Exclusion
of implied
laws and
conditions.
Impl. Act,
56 and 57
Vict., c. 71,
s. 55.

53. Where any right, duty or liability would arise under a contract of sale by implication of law, it may be negated or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage be such as to bind both parties to the contract. R.S.O. 1937, c. 180, s. 53.

"Reason-
able time"
a question
of fact.
Impl. Act,
56 and 57
Vict., c. 71,
s. 56.

54. Where by this Act any reference is made to a "reasonable time", the question of what is a reasonable time is a question of fact. R.S.O. 1937, c. 180, s. 54.

Rights
enforceable
by action.
Impl. Act,
56 and 57
Vict., c. 71,
s. 57.

55. Where any right, duty or liability is declared by this Act, it may, unless otherwise by this Act provided, be enforced by action. R.S.O. 1937, c. 180, s. 55.

Sales by
auction.

Impl. Act,
56 and 57
Vict., c. 71,
s. 58.

56. In case of a sale by auction,

- (a) where goods are put up for sale in lots, each lot is *prima facie* deemed to be the subject of a separate contract of sale;
- (b) a sale is complete when the auctioneer announces its completion by the fall of a hammer or in any other customary manner, and until such announcement is made any bidder may retract his bid;
- (c) where a sale is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person, and any sale contravening this rule may be treated as fraudulent by the buyer;
- (d) a sale may be notified to be subject to a reserved or upset price, and a right to bid may also be reserved expressly by or on behalf of the seller;

- (e) where a right to bid is expressly reserved, but not otherwise, the seller, or any one person on his behalf, may bid at the auction. R.S.O. 1937, c. 180, s. 56.

57.—(1) The rules of the common law, including the law of merchant, save in so far as they are inconsistent with the express provisions of this Act, and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress or coercion, mistake or other invalidating cause, shall continue to apply to contracts for the sale of goods.

Application of common law and law merchant.

Impl. Act, 56 and 57 Vict., c. 71, s. 61.

(2) Nothing in this Act shall affect enactments relating to conditional sales, bills of sale or chattel mortgages, or any enactment relating to the sale of goods which is not expressly repealed by this Act.

Bills of sale, etc., not affected.

(3) The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security. R.S.O. 1937, c. 180, s. 57.

Act not to apply to mortgages, etc.

CHAPTER 346

The Sanatoria for Consumptives Act

1. In this Act,

Interpre-
tation.

- (a) "association" means any association, body or organization howsoever incorporated, authorized or empowered for the purpose of establishing, maintaining or operating a sanatorium;
- (b) "board" means a board of trustees, directors, commission or other governing body or authority of a sanatorium;
- (c) "Department" means Department of Health;
- (d) "inspector" means an officer of the Department designated under this Act as an inspector;
- (e) "local board" means a local board of health established under *The Public Health Act*;
- (f) "local municipality" means city, town, village and township;
- (g) "medical officer of health" means medical officer of health appointed under *The Public Health Act* or any person having the powers thereof;
- (h) "Minister" means Minister of Health;
- (i) "patient" means a person admitted to a sanatorium for the purpose of treatment;
- (j) "post-sanatorium care" of a former patient includes,
 - (i) transportation from the sanatorium to the place of residence,
 - (ii) proper living accommodation, food, clothing and any other necessities of life, and
 - (iii) special treatment for tuberculosis and transportation to and from any place at which such special treatment is available; 1947, c. 97, s. 1, cls. (a - j).
- (k) "provincial aid" means aid granted to a sanatorium out of moneys appropriated for the purpose by the Legislature; 1947, c. 97, s. 1, cl. (k); 1949, c. 90, s. 1; 1950, c. 71, s. 1.

Rev. Stat.,
c. 306

- (l) "regulations" means regulations made under this Act;
- (m) "resident" means a person who has actually resided in a local municipality for the period of three months within the six months next prior to admission to a sanatorium;
- (n) "sanatorium" means any sanatorium, institution, building or other premises or place, howsoever created, established or incorporated for the treatment of patients;
- (o) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of a sanatorium;
- (p) "territorial district" means territorial district under *The Territorial Division Act*;
- (q) "treatment" means the stay, maintenance, observation, care, nursing and treatment of a patient who has or is suspected of having tuberculous disease;
- (r) "unorganized territory" means that part of a territorial district which is without municipal organization. 1947, c. 97, s. 1, cls. (l - r).

Rev. Stat.
c. 388.

PART I

ESTABLISHMENT, OPERATION, INSPECTION OF SANATORIA

Sanatoria
aided in
1930
approved.

Rev. Stat.,
1927, c. 257.

New sanatoria to be
approved.

Suspension
or revocation of
approval.

Inspectors.

2.—(1) The several institutions with their respective properties and appurtenances which under *The Sanatoria for Consumptives Act*, being chapter 257 of the Revised Statutes of Ontario, 1927, received aid for the year 1930 from the Province shall for the purposes of this Act be deemed to be sanatoria, as if they had been approved under this Act.

(2) No institution, building or other premises or place shall hereafter be created, established, incorporated, operated or used as a sanatorium until it has been approved by the Lieutenant-Governor in Council.

(3) Any approval given or deemed to have been given under this Act in respect of any sanatorium may be suspended by the Minister or revoked by the Lieutenant-Governor in Council. 1947, c. 97, s. 2.

3. The Minister, with the approval of the Lieutenant-Governor in Council may designate one or more officers of the Department to be inspectors for the purposes of this Act and the regulations. 1947, c. 97, s. 3.

4. Every sanatorium approved or deemed to be approved under this Act may be carried on under the powers and authorities conferred by any general or special Act under which it was created, established, incorporated or empowered, but where the provisions of any general or special Act conflict with the provisions of this Act or the regulations the provisions of this Act and the regulations shall prevail. 1947, c. 97, s. 4. Powers of sanatorium.

PART II

MUNICIPAL SANATORIA

5. Subject to this Act, any municipal corporation, including a county, or, jointly, any two or more such municipal corporations, may establish a sanatorium, and may for that purpose acquire land and erect and equip buildings thereon and do such other things as may be necessary or incidental to the establishment, completion, maintenance and operation of a sanatorium, and the carrying out of the provisions of this Act and the regulations. 1947, c. 97, s. 5. Establishment of municipal sanatorium.

6. When two or more municipal corporations propose jointly to establish a sanatorium, the councils of the corporations shall provisionally agree upon the proposal respecting the same. 1947, c. 97, s. 6. Provisional agreement for joint sanatorium.

7. Any municipal corporation or corporations which propose to establish a sanatorium shall submit the proposals to the Minister and therewith shall also submit such provisional by-laws, agreements, plans, estimates and other material and information as may be required by the regulations. 1947, c. 97, s. 7. Submission of proposals to Minister.

8. If the site for a proposed sanatorium is situate elsewhere in Ontario than in the municipality or in one of the municipalities, the corporation of which is proposing or is a party to proposing its establishment, such corporation shall, upon submitting the proposals to the Minister, notify in writing the head of the municipality in which the site is situate of the proposals made, and the council of such municipality shall, within one month after receipt of such notice, state in writing to the Minister, the objections, if any, which it may have to the establishment of a sanatorium on such site, but no such objection shall necessarily prevent approval being given hereunder. 1947, c. 97, s. 8. Site in another municipality.

9. The Minister shall submit the proposals, with any report thereon which he may see fit to make, to the Lieutenant-Governor in Council, and upon approval thereof, either as Approval by Order in Council.

submitted or as modified or altered in any way by the Lieutenant-Governor in Council, such approval shall, subject as hereinafter provided, be sufficient authority for the municipal corporation or corporations to establish a sanatorium in accordance therewith. 1947, c. 97, s. 9.

Procedure
for estab-
lishment,
by-laws, etc.

10. When by approval of the Lieutenant-Governor in Council a municipal corporation is, or, jointly, two or more municipal corporations are authorized to establish a sanatorium, the council or councils of such corporation or corporations, as the case may be, may with the assent of the electors of such municipality or municipalities qualified to vote on money by-laws, pass all by-laws necessary to establish, erect, complete and equip the sanatorium and to issue debentures to pay for the cost thereof and where, jointly, two or more municipal corporations are establishing the sanatorium, to enter into an agreement respecting the same according to form approved by the Lieutenant-Governor in Council. 1947, c. 97, s. 10.

County
sanatorium.

11. Where the municipal corporation authorized by the approval of the Lieutenant-Governor in Council, either alone or jointly with another municipal corporation, to establish a sanatorium is a county, it shall not be necessary that any by-laws passed by the council of such county, under section 10, shall be assented to by the electors qualified to vote on money by-laws if such by-laws are passed with the vote of two-thirds of all the members of the county council. 1947, c. 97, s. 11.

Rev. Stat.,
c. 243 to
apply.

12. Subject as otherwise herein provided, *The Municipal Act* shall apply to all by-laws passed and to all debentures issued by a municipal corporation under this Act. 1947, c. 97, s. 12.

Improve-
ments for
sanatorium.

13. When it is proposed by a municipal corporation, which has or by two or more municipal corporations which, jointly, have established a sanatorium, to make any extensions, additions, or structural alterations or improvements to such sanatorium, or to erect any new buildings in connection therewith, the powers and proceedings with respect to such proposals and obtaining approval thereof, and to the passing of by-laws, issue of debentures and entering into of agreements, shall be the same as for the establishment of a sanatorium. 1947, c. 97, s. 13.

Board of
manage-
ment.

14.—(1) When a municipal corporation has, or, jointly, two or more municipal corporations have established a sanatorium, the management and control over it, and its erection, equipment, maintenance, operation, use and affairs generally

shall be vested in a board which, subject to subsection 2, shall be composed of not less than five trustees to be appointed by by-law of the establishing municipal corporation or in case of the establishment of a sanatorium, jointly, by two or more municipal corporations, in accordance with the provisions of the agreement entered into respecting the same.

(2) Notwithstanding subsection 1, the Lieutenant-Governor in Council may appoint any person to be a member of a board of any sanatorium referred to in subsection 1, and such person shall hold office during pleasure; provided that where any such board consists of five members at the time of such appointment the board shall consist of six members until the death, resignation or expiration of the term of office of one of the members other than the member so appointed. 1947, c. 97, s. 14.

Appointment to board by Lieutenant-Governor in Council.

15. The qualifications of the trustees forming the board, their term of office, which shall not exceed five years, the quorum of their meetings and the manner of appointment of successors and of filling vacancies in the office of trustees shall be provided for in such by-law or agreement, and the trustees appointed shall hold office until their successors are appointed. 1947, c. 97, s. 15.

Trustees.

16. The board shall be a corporation under such name as may be designated in the approval given by the Lieutenant-Governor in Council for its establishment. 1947, c. 97, s. 16.

Corporate body.

17. The board shall elect yearly one of its members to be its chairman to hold office for one year, or until his successor is appointed, and a vice-chairman may also similarly be elected. 1947, c. 97, s. 17.

Chairman.

18. With the approval of the Lieutenant-Governor in Council, an association which has authority to establish, maintain and operate a sanatorium may enter into an agreement with one or more municipal corporations, including a county or counties, respecting the establishment of such sanatorium or with respect to providing in whole or in part the cost of erecting, equipping, improving, enlarging, extending or altering a sanatorium established by the association, but no by-law of a municipal corporation for the purpose of providing any such cost, by the issue of debentures or otherwise, shall be passed otherwise than in accordance with the provisions of section 10 or 11 in respect to by-laws passed thereunder. 1947, c. 97, s. 18.

Agreements with associations.

PART III

ALL SANATORIA

Application
of Part.

19. This Part shall apply to all sanatoria whether established by municipal corporations or associations. 1947, c. 97, s. 19.

Powers of
board.

20. Subject as in this Act and the regulations provided, or in any agreement entered into under this Act stipulated, it shall be the duty of the board of a sanatorium, and it shall have the power to govern, manage and control its affairs, and its maintenance, operations and use, and the admission, treatment, conduct, discipline and discharge of patients therein, and for such purposes, the board may pass by-laws, rules and regulations, but no such by-law, rule or regulation shall have force or effect until it is approved by the Lieutenant-Governor in Council. 1947, c. 97, s. 20.

Appoint-
ment of
staff.

21. Subject to the regulations, the board may appoint such superintendents, officers, staffs, employees, and servants of a sanatorium as from time to time may be necessary and fix their salaries and prescribe their powers and duties. 1947, c. 97, s. 21.

Powers of
expropria-
tion.

22. With the approval of the Lieutenant-Governor in Council, the board may pass by-laws for expropriating any land adjacent to or in the vicinity of a sanatorium, which may be deemed requisite for or advantageous to its purposes and in that behalf may exercise the powers of expropriation conferred on a municipality under *The Municipal Act*, the provisions of which relating thereto shall, *mutatis mutandis*, apply to and govern the exercise of such powers so far as the same are applicable or necessary thereto, and the superintendent in such case shall exercise the powers and perform the duties which under *The Municipal Act* are to be exercised and performed by the clerk of the municipality; provided however that the board of a sanatorium which has been established by a municipal corporation or corporations, shall not exercise any such power of expropriation without the consent first obtained of the council or councils of such corporation or corporations. 1947, c. 97, s. 22.

Rev. Stat.,
c. 243.

Exemption
from
taxation.

23. The real property acquired and used for the purpose of and in connection with a sanatorium shall be exempt from all municipal or other taxation, including taxation for school purposes, except and excluding, however, any municipal tax or rate imposed in respect of any public utility supplied to a sanatorium. 1947, c. 97, s. 23.

24. No part of any property acquired or used for the purposes of a sanatorium shall be sold, leased, mortgaged or otherwise disposed of without the approval of the Lieutenant-Governor in Council. 1947, c. 97, s. 24.

25. No part of any property acquired or used for the purposes of a sanatorium shall be expropriated by any corporation or person having powers of expropriation under any Act, without the approval of the Lieutenant-Governor in Council. 1947, c. 97, s. 25.

26. Nothing in sections 24 and 25 shall apply to or prevent the sale, disposition or expropriation of any part of the property acquired or used for the purposes of a sanatorium if the same is required in the widening of any highway, if the Minister has first approved thereof. 1947, c. 97, s. 26.

27. The board may accept from any person donations of property, real or personal, and whether by will or otherwise, for the endowment, use or benefit of a sanatorium and subject to the terms of the donation may apply the same for such purposes. 1947, c. 97, s. 27.

28. No sanatorium which has been approved and established may permanently be closed without the approval of the Lieutenant-Governor in Council, and when any sanatorium is closed or proposed to be closed permanently, the Lieutenant-Governor in Council may make such provision for the sale or other disposition of the sanatorium and all the properties and assets thereof, and for the application of any proceeds of the sale or disposition and otherwise in every respect, as he may deem proper. 1947, c. 97, s. 28.

29. Subject to the provisions of any existing agreement relating thereto, every sanatorium receiving provincial aid shall provide such reasonable facilities for giving instruction to medical students of any university as may be required by the regulations. 1947, c. 97, s. 29.

30. Except as may otherwise be provided in this Act or the regulations, no sanatorium receiving provincial aid shall refuse to admit as a patient any person who is in need of treatment. 1947, c. 97, s. 30.

31. Except as may otherwise be provided in this Act or in the agreement, no sanatorium established by an association which has entered into an agreement with a municipal corporation under this Act shall refuse to admit as a patient any

indigent person or dependant of an indigent person resident in such municipality and requiring treatment. 1947, c. 97, s. 31.

Refusal of
communi-
cable disease
cases.
Rev. Stat.,
c. 306.

32. Nothing in this Act shall require that any sanatorium admit or retain as a patient any person suffering from a communicable disease which under *The Public Health Act* or regulations made thereunder requires quarantine and placarding. 1947, c. 97, s. 32.

Refusal of
non-
residents.

33. Nothing in this Act shall, unless by refusal of admission life would thereby be endangered, require that any sanatorium admit as a patient any person who is not a resident or a dependant of a resident in Ontario. 1947, c. 97, s. 33.

PART IV

MUNICIPAL LIABILITY

Notice to
municipi-
pality.

34.—(1) Upon admission to a sanatorium of any patient, the superintendent shall, by registered letter, notify the clerk of the local municipality in which such patient is or is reported to be a resident, of such admission, giving such particulars as are available to enable the clerk to identify the patient.

Reply.

(2) Within 30 days after the mailing of such notice to the clerk of the local municipality the clerk shall, by registered letter, send a reply to the superintendent from whom the notice was received stating whether such patient is a resident of the local municipality, and if the clerk states that the patient is not a resident, he shall furnish the information which he has obtained relating to the residence of the patient.

Penalty.

(3) If the clerk fails or neglects to comply with the provisions of subsection 2, the patient, for the purposes of this Act, shall be deemed to be a resident of the local municipality for which the clerk is appointed. 1947, c. 97, s. 34.

Superin-
tendent may
request in-
formation.

35.—(1) When the superintendent requires information regarding the ability of any patient to pay toward his maintenance in a sanatorium, the superintendent may request, by registered letter, such information from the clerk of the local municipality in which the patient was resident at the time of admission to the sanatorium.

Penalty
for failure
to reply.

(2) Unless the clerk of the local municipality within 30 days of the mailing to him of any such notice as mentioned in subsection 1, shall have replied to the superintendent supplying the information referred to in subsection 1, or giving reasons why the information cannot be obtained, the local municipality shall pay to the sanatorium the charges for the treatment of such patient in the sanatorium at the rate set for

provincial aid in the regulations, commencing 30 days after the mailing to the clerk of the notice and continuing until the clerk has complied with the provisions of this section. 1947, c. 97, s. 35.

36.—(1) The local municipality in which any indigent person is living at the time he requires admission to a sanatorium shall pay the costs of transporting such person to the sanatorium and if after admission to a sanatorium the residence of such person is determined to be any other local municipality, the local municipality which has paid the costs of transportation of such person to a sanatorium may recover the expenses so incurred from the local municipality where the person was a resident at the time of his admission to the sanatorium, or if any such person was not a resident in any local municipality, the local municipality which has paid the costs may recover such costs from the Department. Cost of transportation to sanatorium.

(2) The local municipality in which any indigent patient was a resident at the time of the admission of such patient to a sanatorium shall pay the costs of transportation of such patient to and from another sanatorium or to and from any public hospital or other public institution if such transfer has been directed by the superintendent of the sanatorium or an inspector. Transportation to another sanatorium.

(3) Whenever the transfer of an indigent patient has been directed by the superintendent of a sanatorium or an inspector to and from any of the places mentioned in subsection 2, the sanatorium may pay the costs of transportation and may recover such costs from the local municipality in which such patient was a resident at the time of his admission to a sanatorium. 1947, c. 97, s. 36. Recovery by sanatorium.

37.—(1) The superintendent of a sanatorium shall, and an inspector may give notice in writing to the local board of any local municipality that any patient who was a resident in such municipality at the time of admission to the sanatorium has recovered to such an extent that he may receive care or treatment outside the sanatorium. Notice that patient recovered.

(2) Upon receiving such notice the local board shall furnish to or for any patient who is indigent the expenses of post-sanatorium care or such part thereof as he is unable to furnish himself. Responsibility of local board.

(3) In the event that the local board fails or neglects to comply with the provisions of subsection 2 within 30 days after such notice has been sent to the local board, the local municipality in which the local board has jurisdiction shall pay to the sanatorium the charges for the treatment of such Failure of local board to comply with provisions of subs. 2.

patient in the sanatorium at the rate set for provincial aid in the regulations commencing 30 days after the notice has been sent to the local board.

Return of
patient to
sanatorium.

(4) In the event that the local board fails or neglects to comply with the provisions of subsection 2, the Minister may direct that the patient shall be returned to a sanatorium, and the local municipality in which the patient was resident at the time of his last admission to a sanatorium shall pay the charges for his transportation together with the charges for his treatment at the rate set for provincial aid in the regulations.

Where
patient
proceeds
to other
municipality.

(5) If any patient at any time after his discharge from a sanatorium goes to a local municipality other than that in which he was a resident at the time of his admission to a sanatorium, the first-named local municipality shall provide for such patient the things mentioned in subsection 2 if the patient is indigent but may recover any expenses so incurred from the local municipality in which the patient was a resident at the time of his admission to a sanatorium.

Recovery
from
county.

(6) If a local municipality is part of the county for municipal purposes, such local municipality shall be entitled to recover from the county one-half of any money expended by the local board under subsection 2 or 5. 1947, c. 97, s. 37.

Burial
expenses.

38. In the event of the death in a sanatorium of any patient who is an indigent person that local municipality in which such indigent person was a resident at the time of admission shall pay to the sanatorium any expenses of burial which it may incur, not exceeding \$30, but the municipality may increase the maximum amount payable to \$40. 1947, c. 97, s. 38; 1948, c. 80, s. 1.

Statements
of account
to be
rendered.

39.—(1) When under this Act the burial expenses of a deceased patient are payable by a local municipality, the sanatorium to which such patient was admitted shall render to the clerk of the local municipality a statement of account of any such expenses with full particulars thereof and if the amount of any such account is not paid within a reasonable time after the same has been rendered it may be recovered as a debt in any court of competent jurisdiction.

Right of
recovery.

(2) Upon payment by a local municipality of any expenses of burial of a deceased patient, the local municipality may recover one-half of such expenses from the county if the local municipality is part of the county for municipal purposes. 1947, c. 97, s. 39.

40. Upon payment by a local municipality or a county of any expenses of burial of a deceased patient, such local municipality or county may recover from his estate or personal representatives, or, in the case of a dependant, from any person liable in law, in respect of such dependant, the amount of the payment so made, and the same may be recovered as a debt in any court of competent jurisdiction. 1947, c. 97, s. 40.

Municipal
recourse
against
estate of
patient.

41. Upon payment by a local municipality or a county of any expenses of burial of a deceased patient by reason of such patient having been assumed to be a resident in such local municipality and it being ascertained that such patient was not a resident therein, but at the time of admission to the sanatorium was a resident in another local municipality in Ontario, the local municipality or county which made the payment may recover the amount thereof as a debt from the local municipality in which such patient was a resident and upon payment by that local municipality, it shall be entitled to exercise the rights of recovery conferred under section 40. 1947, c. 97, s. 41.

Municipal
recourse
against
proper
municipality.

42. For the purpose of this Act, no patient shall be deemed to be a resident in a local municipality,

Cases where
residence not
presumed.

(a) by reason of having gone to the municipality for the purpose of seeking medical advice or treatment or seeking admission or treatment in a sanatorium in such municipality, but in such cases the patient shall for the purpose of this Act be deemed to be a resident in that municipality in which he was a resident at the time of going to the first-named municipality for the purpose of seeking such advice, treatment or admission; or

Persons
seeking
medical aid.

(b) if the municipality is in a territorial district, and the patient having or suspected of having tuberculous disease, has gone to such municipality principally for the purpose of health and within one year after going to such municipality is admitted a patient in a sanatorium, but in such cases the patient shall for the purposes of this Act be deemed to be a resident in that municipality in which he was a resident at the time of going to a municipality in a territorial district; or

Health
seekers in
the districts.

(c) if such patient has been living in the municipality by reason of being a pupil in any school, college, university, training school for nurses established under *The Nurses Act*, or other seminary of learning therein and at the time he became such a pupil was

Pupils.

Rev. Stat..
c. 256.

not a resident therein, but in such cases the patient shall for the purposes of this Act, be deemed to be a resident in that municipality in which he was a resident at the time he became such a pupil; or

Institutional inmates.

- (d) by reason of having been a patient or an inmate of a hospital, sanatorium, house of refuge, orphanage, children's shelter or child welfare institution, jail, reformatory, prison or other public institution in the municipality and otherwise was not a resident therein, but in such cases the patient shall for the purposes of this Act be deemed to be a resident in that municipality in which he was a resident at the time he became such a patient or inmate; or

Member of military, naval or air force.

- (e) if such patient has been living in the municipality by reason of being engaged on active service as a member of the military, naval or air force of Canada, but in such cases the patient shall for the purposes of this Act be deemed to be a resident in that municipality in which he was a resident at the time of enlistment for such service. 1947, c. 97, s. 42.

Residence of former patients.

43. Where a former patient after his discharge from a sanatorium,

- (a) goes to a local municipality other than the local municipality in which he was a resident at the date of his admission to the sanatorium;
- (b) receives post-sanatorium care under section 37 or otherwise under the Act while living in the first-mentioned municipality; and
- (c) is not otherwise a resident of the first-mentioned local municipality,

such patient shall not, for the purposes of this Act, be deemed to be a resident of the local municipality in which he has been living since his discharge from the sanatorium but shall be deemed a resident of the local municipality in which he was resident at the date of his first admission to a sanatorium. 1947, c. 97, s. 43.

PART V

PROVINCIAL AID

Provincial aid.

44. The Minister may, out of any moneys appropriated by the Legislature for the purpose,

- (a) pay provincial aid to any sanatorium; and
- (b) make payments for the treatment outside a sana-

torium of any person suffering from tuberculosis and for the post-sanatorium care of any former patient,

in such amounts, in such manner and at such times as may be prescribed by the regulations. 1950, c. 71, s. 2.

PART VI

GENERAL

45.—(1) Any medical officer of health may, with the approval of an inspector, require any person who is resident in the municipality or district for which the medical officer of health is appointed, and who is suspected by the medical officer of health to be suffering from tuberculosis, to submit to such examination for tuberculosis as the medical officer of health shall direct. Medical officer may require examination.

(2) In requiring any person to submit to an examination under this section, the medical officer of health shall serve such person, or in the case of an infant, the parent or guardian of the infant, with a notice in writing signed by the medical officer of health and by an inspector, specifying the nature, time and place of the examination. Notice.

(3) Any person served with a notice who fails to carry out any order or direction contained therein shall be guilty of an offence and subject to the penalties provided in section 52. Penalty.

(4) Any expenses incurred by a medical officer of health under this section shall be paid by the local municipality for which he is appointed, and in the case of a medical officer of health appointed to act in unorganized territory, such expenses shall be paid by the Department. 1947, c. 97, s. 45. Expenses.

46.—(1) Any medical officer of health or duly qualified medical practitioner may, with the approval in writing of the Minister, make a complaint or lay an information in writing, and under oath before a justice of the peace, charging that the circumstances set out in clauses *a*, *b* and *c* of subsection 5 exist with regard to any person named in the complaint or information. Information or complaint.

(2) Upon receiving any such complaint or information the justice of the peace shall hear and consider the allegations of the complainant, and if he considers it desirable or necessary the evidence of any witness or witnesses, and if he is of the opinion that a case for so doing is made out, he shall issue a summons directed to the person complained of, requiring him to appear before a magistrate at a time and place named therein. Issue of summons.

Issue of
warrant.

(3) Where a person to whom a summons is directed does not appear at the time and place named therein, or where it appears that a summons cannot be served, a magistrate may issue a warrant directing that the person named in the summons be brought before him.

Magistrate's
inquiry.

(4) Where a person appears or is brought before a magistrate under this section, the magistrate shall inquire into the truth of the matters charged in the complaint or information, and for such purpose shall proceed in the manner prescribed by *The Summary Convictions Act* and shall have all the powers of a magistrate holding a hearing under that Act.

Rev. Stat.,
c. 379.

Order for
detention.

(5) Where a magistrate finds that any such person,

- (a) is suffering from pulmonary tuberculosis in an infectious state;
- (b) is unwilling or unable to conduct himself in such a manner as not to expose members of his family or other persons to danger of infection; and
- (c) refuses to be admitted or to remain in a sanatorium or has left a sanatorium against the advice of the superintendent thereof,

he shall order that such person be admitted to and detained in a sanatorium or in such other place as may be set aside with the approval of the Minister for the care of tuberculous persons, for such period not exceeding one year, as the magistrate may deem necessary.

Laboratory
certificate.

(6) In any inquiry under this section, upon production of a certificate signed or purporting to be signed by the director of a laboratory approved by the Minister as to the presence of tubercle bacilli in the sputum of any person, such certificate shall be *prima facie* evidence of the facts stated therein, and of the authority of the person giving such certificate without any proof of appointment or signature.

Detention
pending
inquiry or
removal.

(7) Any person detained pending a hearing under this section or pending his removal to a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons, shall be detained in a sanatorium or such other safe and comfortable place as a justice of the peace or magistrate may direct.

Transfer of
patients.

(8) The Minister may direct the transfer of any person detained under this section to any sanatorium, hospital or any other place when he deems such transfer is necessary for the welfare of the patient.

Extension of
detention.

(9) Any person detained under this section may, with the approval in writing of the Minister, be brought before a

magistrate at any time during the last 30 days of the period for which he is so detained, and if the magistrate finds that he is still suffering from pulmonary tuberculosis in an infectious state he may order that such person be further detained in a sanatorium or such other place as may be set aside with the approval of the Minister for the care of tuberculous persons for such period, not exceeding one year, as the magistrate may deem necessary. 1947, c. 97, s. 46.

47. Any patient in a sanatorium or in any other place set aside with the approval of the Minister for the care of tuberculous persons who is unwilling or unable to conduct himself in such a manner as not to expose other patients or other persons to danger of infection, or whose behaviour is detrimental to the recovery of other patients, may, with the approval in writing of the Minister, be brought before a magistrate who may, if he finds any such condition to exist, order that such patient be segregated from the other patients in a separate part of the sanatorium or other place and there detained for such period not exceeding one year as the magistrate may deem necessary. 1947, c. 97, s. 47.

48.—(1) The superintendent, every member of the medical staff and every nurse and attendant employed in a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons and every medical officer of health and peace officer shall have authority to,

- (a) execute any warrant and enforce any order of a magistrate issued or made under section 46 or 47;
- (b) bring any person before a magistrate under subsection 9 of section 46 or section 47; and
- (c) apprehend any person who has left a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous patients in contravention of any order made under section 46 or 47.

(2) Where the Minister is of opinion that any person detained under section 46 or 47 in a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons is no longer suffering from pulmonary tuberculosis in an infectious state, he may direct the discharge of such person.

(3) The expenses of all proceedings taken under section 46 or 47 shall be paid out of such moneys as may be appropriated for the purposes of this Act by the Legislature. 1947, c. 97, s. 48.

Transfer to
a public
hospital.

Rev. Stat.,
c. 307.

49. The superintendent of a sanatorium shall have authority to direct the transfer of any patient in such sanatorium to a hospital under *The Public Hospitals Act* for the purpose of having performed upon such patient any surgical operation for any condition other than tuberculosis and in any such case the charges for the treatment in the public hospital of any such patient who is indigent shall be paid for in the same manner as charges for indigent patients are paid under *The Public Hospitals Act*. 1947, c. 97, s. 49.

Limitation
of action.

50. Any action against a sanatorium or any nurse or person employed therein for damages for injury caused by negligence in the admission, care, treatment or discharge of any patient shall be brought within six months after such patient is discharged from or ceases to receive treatment at such sanatorium and not afterwards. 1947, c. 97, s. 50.

Regulations
for
sanatoria.

51.—(1) The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make such regulations with respect to sanatoria as may be deemed necessary for,

- (a) their creation, establishment, construction, alteration, equipment, maintenance and repair;
- (b) their classification, grades and standards;
- (c) their inspection, control, government, management, conduct, operation and use, including the appointment of one member of the board;
- (d) their inspectors, superintendents, staffs, officers, servants and employees and the powers and duties thereof;
- (e) the admission, treatment, conduct and discharge of patients;
- (f) prescribing the forms relating to patients and their admission to, maintenance in, transfer, release and discharge from sanatoria, and all other forms required for the carrying out of the provisions of this Act and the regulations;
- (g) the classification, length of stay, rates and charges of and for patients;
- (h) the records, books, accounting system, reports and returns to be made and kept by sanatoria;
- (i) the distribution, payment, withholding and restoration of and other matters affecting provincial aid;
- (j) all other matters affecting sanatoria,

and may make regulations providing payment for the treat-

ment outside sanatoria of persons suffering from tuberculosis and the post-sanatorium care of former patients.

(2) The Minister may, from time to time, declare all or any of the regulations not to be in force with respect to all sanatoria or any specified sanatorium or sanatoria for such time or times as he may deem expedient. 1947, c. 97, s. 51.

52. Any person who contravenes or is a party to the contravention, directly or indirectly, of any provision of this Act or the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$500. 1947, c. 97, s. 52.



CHAPTER 347

The School Attendance Act

1. In this Act,

Interpretation.

- (a) "guardian", in addition to having the meaning ascribed in law, includes any person who has received into his home another person's child under the age of 14 years who is resident with him or in his care or legal custody;
- (b) "inspector" means inspector of public or separate schools;
- (c) "principal" means head teacher of a public or separate school;
- (d) "regulations" means regulations made under *The Department of Education Act* or this Act;
- (e) "school" means any school established under any Act the administration and enforcement of which is vested in the Minister of Education. R.S.O. 1937, c. 367, s. 1.

Rev. Stat.,
c. 94.

2. Except as provided in this Act, every child between 8 and 14 years of age shall in each year for the full term during which the school is open attend school in the school section or municipality in which he resides or other school which he is required or entitled by law to attend. R.S.O. 1937, c. 367, s. 2.

Children
to attend
school.

3. Except as provided by this Act, it shall be the duty of the parent or guardian of every child between 8 and 14 years of age to have the child attend school as required by this Act. R.S.O. 1937, c. 367, s. 3.

Duty of
parent or
guardian.

4.—(1) A parent, guardian or other person shall not be liable to any penalty imposed by this Act in respect of a child if, When attendance excused.

- (a) the child is under efficient instruction in reading, spelling, writing, grammar, geography and arithmetic;
- (b) the child is unable to attend school by reason of sickness or other unavoidable cause;

- (c) there is no public or separate school which the child has the right to attend within two miles measured by the nearest highway from the child's residence, if he is under 10 years of age, or within three miles if he is over that age, and transportation is not provided by the school board for the children going to and from the public or separate school of the section or municipality;
- (d) there is not sufficient accommodation in the school which the child has the right to attend;
- (e) the child has been excused by the school attendance officer as hereinafter provided;
- (f) the child has passed the university matriculation examination in Arts, or has completed the examination for admission to the normal schools or a course which gives him an equivalent standing;
- (g) the child is absent from school for the purpose of receiving instruction in music and the period of absence does not exceed one half-day in each week;
- (h) the child is officially excluded from attendance at school under any provisions of the school laws or regulations.

Child who
is blind
or deaf.

(2) The fact that a child is blind or deaf shall not be deemed an unavoidable cause within the meaning of clause *b* of subsection 1 if the child is a fit subject for admission to The Ontario School for the Blind or The Ontario School for the Deaf, and in case of need, his fitness shall be determined by a committee to be appointed by the Minister.

Inquiry by
provincial
officer.

(3) The provincial school attendance officer may inquire as to the instruction given to any child who is not attending school or as to any other reason or excuse for non-attendance of a child at school, and as to the general educational proficiency of the child, and the other circumstances of the case, and may by order in writing signed by him, determine whether or not the child shall be exempt from school attendance, and if he deems the instruction given to the child is inadequate, or that there is no valid reason why the child should not attend school, he may by such order direct that the child shall attend school, and thereafter and so long as such order remains in force the child shall not be excused from school attendance under the provisions of subsection 1.

Children
attending
school
before 8
years of age.

(4) Where a child over 5 but under 8 years of age has been enrolled as a pupil in a public or separate school, the provisions of this Act shall apply during the school term for which

the child is enrolled as if he was of an age between the ages of 8 and 14. R.S.O. 1937, c. 367, s. 4.

5.—(1) Except as provided by subsection 2, no child under the age of 14 years shall be employed by any person during school hours, and any person who employs a child in contravention of this section shall be guilty of an offence and shall be liable to a penalty of not more than \$20. Employment of children during school hours.

(2) Where, in the opinion of the school attendance officer, the services of a child under the age of 14 years are required in husbandry, or in urgent and necessary household duties, or for the necessary maintenance of the child or of some person dependent upon him, the school attendance officer may, by certificate setting forth the reasons therefor, relieve the child from attending school for any period not exceeding six weeks out of each school term so long as the child is required in any occupation stated in the certificate. R.S.O. 1937, c. 367, s. 5. Certificate relieving from attendance.

6. The Lieutenant-Governor in Council may appoint an officer, to be known as the provincial school attendance officer, whose duty it shall be, under the direction of the Minister, and subject to the regulations, to superintend and direct the enforcement of this Act and in that behalf to perform such duties and exercise such powers as may be prescribed by this Act and the regulations. R.S.O. 1937, c. 367, s. 6. Appointment and duties of provincial officer.

7. Where it appears to the Minister that in any territory without municipal organization or in unsurveyed territory school trustees are not providing accommodation for the children entitled to attend school, or have neglected or failed to raise the necessary funds for the establishment and maintenance of a school, or have in other respects failed to comply with *The Public Schools Act* and the regulations, or that the election of trustees has been neglected and no regular board of trustees is in existence, the Minister may by commission under his hand authorize and direct the provincial school attendance officer to do all things and exercise all powers which may be necessary for the establishment and maintenance of a school, the erection of school buildings and providing accommodations, the opening and conducting of a school, the assessing and levying of all sums of money required for school purposes, and generally whatever may be required for the purpose of establishing, maintaining and conducting a school in accordance with *The Public Schools Act* and the regulations, and thereupon the provincial school attendance officer shall have and may exercise and perform with regard to all matters set forth in the commission, all the authority, powers and duties vested in, and to be performed by a board of school trustees Provincial officer acting as trustee.
Rev. Stat., c. 316.

under *The Public Schools Act* and the regulations. R.S.O. 1937, c. 367, s. 7.

Appointment
of attend-
ance officers.

8.—(1) The public school board or separate school board of every urban municipality and every board of education or high school board shall appoint one or more school attendance officers for the enforcement of this Act, but two or more boards may appoint the same attendance officer or officers if, in the judgment of the Minister, the interests of economy and efficiency may be better served thereby. 1950, c. 72, s. 1 (1), *part.*

Time of
appoint-
ment.

(2) The appointment or re-appointment of a school attendance officer shall be made by the appointing body not later than the last meeting for the year, and any vacancy created by resignation or otherwise shall be filled by the appointing body at the earliest possible time after the vacancy occurs.

Powers as a
peace officer.

(3) A school attendance officer, for the purposes of this Act, shall be vested with the powers of a peace officer and shall have authority to enter factories, workshops, stores, shops and all other places where children may be employed or congregated, or at the request of the parent or guardian, shall have authority to apprehend and deliver to the school from which he is absent or to his parent or guardian, without warrant, any child found illegally absent from school, and shall perform such services as may be necessary for the enforcement of this Act. R.S.O. 1937, c. 367, s. 8 (2, 3).

Appointment
of attend-
ance officers
in townships.

(4) The council of every township shall appoint a school attendance officer or school attendance officers who shall have the same powers and perform the same duties as school attendance officers appointed under subsection 1, but the appointment of a school attendance officer by the council of a township shall not affect the powers and duties of a school attendance officer appointed under subsection 6. 1950, c. 72, s. 1 (1), *part.*

In unsur-
veyed or
unorganized
territory.

(5) A board of public school trustees or separate school trustees in unsurveyed territory or territory without municipal organization shall appoint one or more school attendance officers. 1939, c. 44, s. 17, *part.*

By school
boards in
townships.

(6) Where a public or separate school board in a township employs five or more teachers, the board may appoint one or more school attendance officers. 1950, c. 72, s. 1 (2).

Jurisdiction
of attend-
ance officers.

(7) Where more than one school attendance officer functions in a municipality, the officer appointed by the high school board, if any, shall have jurisdiction in respect of all pupils who are attending the high school, the officer appointed by the public school board or the separate school board, as the case may be, shall have jurisdiction in respect of pupils who

are attending the public or separate school and, where no officer has been appointed by a school board in a township, the school attendance officer appointed by the township council shall have jurisdiction in respect of all pupils.

(8) A school attendance officer appointed by a board of ^{idem.} education shall have jurisdiction in respect of both public and high school pupils under the jurisdiction of the board. 1950, c. 72, s. 1 (3).

(9) The municipality or school board appointing a school ^{Rules.} attendance officer may make rules not inconsistent with the provisions of this Act or the regulations for the direction of such officer.

(10) Notice of every appointment made under this section shall be given in writing by the appointing body to the provincial school attendance officer and to the inspector, and in case of an appointment by the council of the township, to every public and separate school board of the township, and to the public and separate school inspectors. ^{Notice of appointment.}

(11) A woman shall be eligible for appointment as a school attendance officer. ^{Women may be appointed.}

(12) Every school attendance officer shall report monthly to the body appointing him and annually to the provincial school attendance officer, according to the form provided by the regulations. ^{Monthly report.}

(13) A school attendance officer shall perform his duties under the direction of the inspector, and shall at all times carry out the instructions and directions of the provincial school attendance officer. R.S.O. 1937, c. 367, s. 8 (6-10). ^{To act under inspector and provincial officer.}

9. A board of education or board of school trustees shall have authority to make a complete census of all children resident in the municipality or school section who are not of the age of 21 years. 1950, c. 72, s. 2. ^{Census of children.}

10. Every school attendance officer shall examine into every case of non-compliance with this Act within his own knowledge or when requested so to do by the inspector or by a principal of a school, a teacher or a ratepayer, and shall warn the parent or guardian of children not attending school in compliance with this Act, in writing, of the consequences of such non-compliance, and shall also give notice in writing to the parents, guardian or other person having the authority or control of a child between the ages of 8 and 14 years who is not attending school as required by this Act, to cause the child to attend school forthwith. R.S.O. 1937, c. 367, s. 10. ^{Inquiries as to non-attendance and notice to parents, etc.}

Liability of
parents.

11.—(1) A parent, or guardian or other person having the charge or control of any child between the ages of 8 and 14 years, who neglects or refuses to cause the child to attend school unless the child is excused from attendance as provided by this Act, shall be guilty of an offence and shall be liable to a penalty of not less than \$1 and not more than \$20. R.S.O. 1937, c. 367, s. 11 (1); 1944, c. 56, s. 16.

Requiring
bond for
attendance.

(2) The court may, instead of imposing a penalty, require a person convicted of an offence under this section to give a bond in the penal sum of \$100, with one or more sureties to be approved by the court, conditioned that the person convicted shall, after the expiration of five days, cause the child to attend school as required by this Act. R.S.O. 1937, c. 367, s. 11 (2).

Proceed-
ings to be
taken by
officers.

12. Proceedings against a parent, guardian or other person having the charge or control of a child, or against any other person violating any of the provisions of this Act shall be instituted by the school attendance officer. R.S.O. 1937, c. 367, s. 12.

Report of
teacher on
non-
attendance.

13.—(1) The teacher or principal of every public, separate, high or vocational school shall report to the school attendance officer in charge of the school at such times and in such manner as is required by the regulations in that behalf, the names, ages and residences of all pupils of school age who have not attended school as required by this Act, together with such other information as the school attendance officer may require for the enforcement of this Act.

Report on
expulsion.

(2) The teacher or principal, as the case may be, shall forthwith report to the school attendance officer every case of expulsion.

Where there
is no school
attendance
officer.

(3) Where there is no school attendance officer and a child has failed to attend school or has attended so irregularly as in the opinion of the inspector to necessitate special action, the inspector shall notify the parents or guardian of the child of the provisions of this Act. R.S.O. 1937, c. 367, s. 13 (1-3).

How non-
attendance
or irregular
attendance
ascertained.

(4) The non-attendance or irregular attendance of the child shall be ascertained by the teacher of the school which the child should attend by reference to the school register, and the teacher shall report such non-attendance or irregular attendance to the inspector and to the school attendance officer. R.S.O. 1937, c. 367, s. 13 (4); 1950, c. 72, s. 3.

Duty of
inspector.

(5) It shall be the duty of the inspector, when inspecting every school in his inspectorate, to see that the duties of the school attendance officer are properly performed and that the

provisions of subsections 3 and 4 are complied with and to report any breach thereof to the Department of Education. R.S.O. 1937, c. 367, s. 13 (5).

14. Where any of the provisions of this Act are violated by a corporation, proceedings may be had against every officer or agent of the corporation who is a party to the violation, and such officer or agent shall be subject to the same penalties as any other person similarly offending. R.S.O. 1937, c. 367, s. 14. Violations of Act by corporations.

15. Every person and officer charged with the duty of enforcing any provision of this Act who neglects to perform the duty imposed upon him shall be guilty of an offence and shall be liable to a penalty of not more than \$10 for each offence. R.S.O. 1937, c. 367, s. 15. Penalty for neglecting to enforce Act.

16.—(1) The penalties imposed by this Act shall be recoverable under *The Summary Convictions Act* and the moneys accruing from the penalties shall be handed to the board of education or the board of trustees of the school of which the person penalized is a supporter, to be applied to school purposes. R.S.O. 1937, c. 367, s. 16. Penalties, recovery and application of Rev. Stat., c. 379.

(2) In any prosecution under this Act a certificate as to the attendance or non-attendance at school of any child signed or purporting to be signed by the principal of the school shall be *prima facie* evidence of the facts stated therein without any proof of the appointment of the principal or of his signature. 1944, c. 56, s. 17. Certificate of principal.

17. A conviction or order made in any matter arising under this Act shall not be removed either at the instance of the Crown or of any private person into the Supreme Court. R.S.O. 1937, c. 367, s. 17. Convictions not to be removed.

18. Where a person is charged with an offence under this Act in respect to a child who is alleged to be within the ages of 8 and 14 years and the child appears to the court to be within such ages the child shall, for the purposes of this Act, be deemed to be within such ages unless the contrary is proved. R.S.O. 1937, c. 367, s. 18. Onus of proof of age of child.

19.—(1) Nothing herein shall be held to require the child of a Roman Catholic who is a separate school supporter to attend a public school or to require the child of a public school supporter to attend a Roman Catholic separate school. Children of separate school supporters.

(2) No penalty shall be imposed in respect of the absence of a child from school on a day regarded as a holy day by the Absence on holy days excused.

church or religious denomination to which the child belongs.
R.S.O. 1937, c. 367, s. 19.

Regulations. 20. Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations,

- (a) prescribing the powers and duties of every body charged under this Act with the appointment of a school attendance officer;
 - (b) prescribing the duties and qualifications of the provincial school attendance officer and of school attendance officers, inspectors and other officers acting under this Act;
 - (c) respecting the notices to be given and the returns to be made under this Act and the time and manner of giving or making the notices and returns;
 - (d) prescribing the forms to be used under this Act;
 - (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1945 (2nd Sess.), c. 8, s. 25.
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CHAPTER 348

The School Sites Act

- 1.** In this Act, Interpretation.
- (a) "board" means board of public school trustees, board of separate school trustees, board of education, high school board or advisory committee appointed under *The Vocational Educational Act*; Rev. Stat., c. 413.
- (b) "judge" means judge or junior or acting judge of the county or district court of the county or district in which lands to be acquired for a school site under this Act are situate;
- (c) "owner" includes a mortgagee, lessee, tenant and occupant and any person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested;
- (d) "school site" means the land necessary for a school-house, school garden, teacher's residence, caretaker's residence, drill hall, gymnasium, offices and playgrounds connected therewith, or other land required for school purposes or for the offices of a board. R.S.O. 1937, c. 370, s. 1.
- 2.** A judge who is a member of a board shall not act in any matter under this Act in which the board is interested. R.S.O. 1937, c. 370, s. 2. Judge not to act when member of board.
- 3.** The powers and duties conferred and imposed upon a board by this Act shall be subject to the regulations made under *The Department of Education Act*. R.S.O. 1937, c. 370, s. 3. Powers and duties to be subject to regulation. Rev. Stat., c. 94.
- 4.—(1)** In a township a school site shall not be selected nor shall an existing school site be enlarged so as to include land which comprises or forms part of or is situate within 100 yards of an orchard, garden, pleasure-ground or dwelling house without the consent of the owner of the orchard, garden, pleasure-ground or dwelling house unless the judge, upon the application of the board and after notice to all persons interested, certifies in writing that other land suitable for the required purpose cannot be obtained. Restrictions as to selection in townships.

Compensation to owner of orchard, etc.

(2) Where the judge so certifies, the board shall pay to the owner of the orchard, garden, pleasure-ground or dwelling house such sum as the judge, on the application of the owner, shall determine to be a fair compensation for having the school site located within such distance and the costs of the application shall be in the discretion of the judge.

Application of section limited.

(3) This section shall not apply to that part of a township which lies within five miles from the limits of a city having a population of over 100,000. R.S.O. 1937, c. 370, s. 4.

Board may purchase or expropriate.

Rev. Stat., c. 316.

5.—(1) Subject to section 4 and to the provisions of *The Public Schools Act* as to the selection of a site by the board of a rural school section, every board may acquire by purchase or otherwise or may expropriate any land described in a resolution of the board declaring that the land is required for a school site or for the enlargement of a school site. R.S.O. 1937, c. 370, s. 5 (1).

Acquiring land in adjoining township.

(2) The board of education for a city or town may acquire by purchase or otherwise, or may expropriate land in a township for the purposes of a school site where the land adjoins a boundary between the city or town and the township. R.S.O. 1937, c. 370, s. 5 (2); 1948, c. 81, s. 1; 1949, c. 92, s. 1.

Land not to be exempt from taxation.

(3) Where a board of education expropriates land under subsection 2, the land shall not be exempt from taxation by the township, but the corporation of the township and the board of education may agree upon a fixed annual sum to be paid as taxes upon the land, or in case of disagreement, the amount shall be determined by the judge. R.S.O. 1937, c. 370, s. 5 (3).

Acquiring land outside city or town for future school sites.

6.—(1) A board of a city or town may acquire by purchase or otherwise any land in an adjacent municipality which the board deems it desirable to acquire in view of the probable further extension of the limits of the city or town so as to include the land, but no land shall be acquired under this section at a greater distance than one mile from the limits of the city or town.

Assessment and taxation.

(2) All land acquired under subsection 1, so long as it is held by the board, shall be subject to municipal assessment and taxation in the municipality in which it is situate.

Expropriation not authorized.

(3) Nothing in subsection 1 shall be deemed to authorize the expropriation of land in another municipality by a board of a city or town.

Power to dispose of sites so acquired.

(4) Where a board has acquired land in another municipality under subsection 1, and the land appears to the board to have become undesirable for school purposes, the board may sell, lease or otherwise dispose of the land as it may deem expedient. 1949, c. 92, s. 2.

7. At any time after a board passes a resolution declaring that any land is required for a school site, or for the enlargement of a school site and that immediate possession thereof is required by it, the board, by leave of the judge and upon payment into the Supreme Court of a sum sufficient, in the opinion of the judge, to satisfy the compensation, may enter upon and take possession of the land, and if any resistance or forcible opposition is made to its so doing, the judge may issue his warrant to the sheriff of the county in which the land lies to put the board in possession, and to put down such resistance or opposition, which the sheriff, taking with him sufficient assistance, shall accordingly do. R.S.O. 1937, c. 370, s. 7.

Order for
immediate
entry on
land taken.

8.—(1) Every corporation, tenant in tail or for life, guardian, executor, administrator and every trustee (not only for and on behalf of himself, his heirs and successors, but also for and on behalf of those he or they may represent, whether married women, infants, unborn issue, mentally incompetent persons or mentally defective persons), or other person, seized, possessed of or interested in any land may contract for, sell and convey all or part thereof or any interest therein to a board for a school site or for an enlargement of or addition to a school site, and any contract, agreement, sale, conveyance or assurance so made shall be valid and effectual to all intents and purposes.

Who may
sell and
convey to
board.

(2) Where there is no person who under subsection 1 may contract, sell or convey, the Supreme Court may on the application of the board appoint some person to act for and on behalf of the owner for the purposes mentioned in subsection 1 and in any proceedings which may be taken under this Act, and may give proper direction concerning the disposition of the purchase money. R.S.O. 1937, c. 370, s. 8.

Where there
is no person
who can
convey.

9.—(1) Where the owner and the board are unable to agree on the compensation to be paid to the owner, the amount to be paid shall be fixed and determined by the judge upon oral evidence at such time and place as he may upon notice to all concerned appoint.

Determin-
ing amount
of com-
pensation
where no
agreement.

(2) The hearing shall be conducted in the same manner as nearly as may be as in the case of a trial before the judge in an action in the county court and a subpoena may issue from the county court to command the attendance of witnesses.

Hearing.

(3) The sheriff and the clerk of the county court shall perform the same duties and shall be entitled to the same fees as in the case of a trial in the county court.

Duties of
sheriff and
clerk.

(4) An appeal shall lie from the decision of the judge to the Court of Appeal. R.S.O. 1937, c. 370, s. 9.

Appeal.

Interest payable to owner.

10. The judge shall determine what interest, if any, shall be paid to the owner. R.S.O. 1937, c. 370, s. 10.

Judge may order notice to be published and mailed.

11.—(1) On the filing with the county judge of the certificate of an Ontario land surveyor that he is not interested in the matter, that he knows the land, describing it, and that some certain sum named in the certificate is, in his opinion, a fair compensation for the land, the judge, if satisfied by affidavit or other evidence, that diligent inquiry has been made and that the owner is unknown or cannot be found, may order that a notice be inserted for such time as he may deem proper in some newspaper published in the county or district and may order that notice be also sent to any person by mail or served upon him in such manner as the judge may direct.

Contents of notice.

(2) The notice shall contain a short description of the land and a statement of the readiness of the board to pay the sum so certified, shall give the name of the judge who is to determine the compensation under this Act and shall state the time within which the offer is to be accepted, and such other particulars as the judge may direct.

Determining compensation.

(3) If within the time stated the owner does not notify the board of his acceptance of the sum offered, the judge may proceed *ex parte* on oral evidence to determine the compensation to be paid. R.S.O. 1937, c. 370, s. 11.

Judge may determine claims of encumbrancer, etc.

12. The judge may hear and determine all claims or rights of encumbrancers, lessees, tenants, occupants or other persons as well as those of the owner in respect to the land, provided that in such case the claimant or other person has first received 10 clear days notice of the intention to determine his claim or right. R.S.O. 1937, c. 370, s. 12.

Damages caused by severance.

13. Where part only of the lot or parcel of land of the owner is required, the judge shall include in the compensation the amount which will, in his opinion, compensate the owner for any damage directly resulting from severance. R.S.O. 1937, c. 370, s. 13.

Right of desistment.

14.—(1) A notice of intention to acquire land may be desisted from by the board at any time within 21 days after the amount has been determined by the judge by giving written notice to the owner and filing the same with the clerk of the county court, but the board shall in that case pay the whole cost of the proceedings and all damages sustained by the owner in consequence of the taking and abandonment and such costs shall be ascertained in a summary way by the judge.

Not to be exercised more than once.

(2) The right of desistment shall not be exercised more than once. R.S.O. 1937, c. 370, s. 14.

15. The costs of the proceedings shall be in the discretion of the judge, who may direct to and by whom and in what manner such costs or any part thereof shall be paid, and he may award any costs to be paid as between solicitor and client. R.S.O. 1937, c. 370, s. 15. Cost of arbitration.

16. If the amount determined by the judge and any costs awarded have been paid in the manner and to the person directed by the judge, he may make a vesting order vesting the land taken in the board and the order may be registered and shall confer upon the board a good title to the land taken. R.S.O. 1937, c. 370, s. 16. Vesting order.

17.—(1) Every sum to be paid as compensation shall be paid within 30 days after the determination of the amount to be paid. Compensation to be paid within 30 days.

(2) Where the person entitled thereto is absent or where for any other reason payment of such sum cannot be made pursuant to the award, or if the title to the land or any interest therein or the right to any part of the compensation is in doubt, or if for any other reason the board deems it advisable, the board may pay the sum awarded or any part thereof into the Supreme Court with six months interest thereon. R.S.O. 1937, c. 370, s. 17. Payment into court.

18. The compensation for any land which is taken without the consent of the owner shall stand in the stead of the land, and any claim to or encumbrance upon the land, or any part thereof, shall, as against the board, be converted into a claim to the compensation or to a like proportion thereof and it shall be responsible accordingly, whenever it has paid the compensation or any part thereof to a person not entitled to receive the same, saving always its recourse against such person. R.S.O. 1937, c. 370, s. 18. Compensation awarded to stand in the stead of land taken.

19. In the case of a municipality for which an official arbitrator has been appointed under *The Municipal Arbitrations Act*, the compensation to be paid to the owner shall be determined by the award of the official arbitrator instead of by the judge as hereinbefore provided, and the provisions of that Act shall *mutatis mutandis* apply. R.S.O. 1937, c. 370, s. 19. Compensation to be determined by official arbitrator. Rev. Stat., c. 244.

CHAPTER 349

The School Trust Conveyances Act

1. Where persons, residing in Ontario, interested in any school established in any city, town, village or township therein whether as parents of children frequenting such schools or as contributors to the same, or both, have occasion or are desirous to take a conveyance of real property for the use of such schools, such persons may elect from among themselves, and appoint not less than five and not more than seven trustees, to whom and to whose successors, to be appointed in the manner specified in the deed of conveyance, the real property requisite for the school may be conveyed. R.S.O. 1937, c. 371, s. 1.

2.—(1) The trustees so appointed and their successors in perpetual succession, by the name expressed in the deed, may take, hold and possess the real property so conveyed, and bring and maintain any action for the protection thereof, and of their right thereto, but there shall not be so held in trust more than 10 acres of land at any time for any one school.

(2) This section shall not extend to public schools. R.S.O. 1937, c. 371, s. 2.

3. The trustees shall, within 12 months after the execution of any such deed, cause the deed to be registered in the registry office of the registry division in which the land lies. R.S.O. 1937, c. 371, s. 3.



CHAPTER 350

The Schools for the Deaf and Blind Act

1. The institution at Belleville for the education and instruction of the deaf and dumb, with the land, buildings and appurtenances, and any land hereafter purchased or acquired therefor, and any buildings hereafter erected thereon, shall be for the public use of the Province, and shall be known and designated as The Ontario School for the Deaf. R.S.O. 1937, c. 365, s. 1. Ontario School for the Deaf.

2. The institution at Brantford for the education and instruction of the blind, with all the land, buildings and appurtenances, and any land hereafter purchased or acquired therefor, and any buildings hereafter erected thereon, shall be for the public use of the Province and shall be known and designated as The Ontario School for the Blind. R.S.O. 1937, c. 365, s. 2. Ontario School for the Blind.

3. The institutions shall be for the purpose of educating and of imparting instruction in manual arts to such deaf persons and such blind persons as are born of parents, or are wards of persons, *bona fide* residents of Ontario. R.S.O. 1937, c. 365, s. 3. Objects of the institutions.

4. The Lieutenant-Governor in Council may appoint to each of the institutions, to hold office during pleasure, a principal who shall be the chief executive officer, a bursar, a physician, a matron, and such other officers, instructors and servants as he may deem necessary, and may also fix the salary of every such officer and servant. R.S.O. 1937, c. 365, s. 4. Appointment of officers, salaries.

5.—(1) The institutions shall be under the control and direction of the Minister of Education, and he shall have power, and it shall be his duty, to make such regulations as he may deem expedient for their government, discipline and management; prescribing and regulating the duties of the principals, bursars, physicians, matrons, and other officers, instructors and servants employed in or about the institutions; for the education and instruction of the pupils; and subject to the provisions of this Act, prescribing the terms and conditions upon which pupils shall be admitted to, and remain in, the institutions, and the period for which they shall be allowed to remain therein, and for their discharge therefrom. Minister of Education and his powers.

Expenses in connection with indigent pupils.

(2) The regulations shall provide for the transportation to and from the school, for clothing and for other necessary expenses and for the residence elsewhere than at the school during the vacation, of persons admitted to the school who are without means of support, and for the payment of all expenses so incurred by the treasurer of the municipality in which any such pupil resides or was domiciled at the time of his admittance to the school out of the funds of the municipality and the municipality may recover the same from the persons responsible therefor.

Approval by Lieutenant-Governor.

(3) No such regulations shall have any effect until approved by the Lieutenant-Governor in Council. R.S.O. 1937, c. 365, s. 5.

Admittance.

6.—(1) No person shall be admitted to either institution except for the purposes of education and instruction, or who is over the age of 21 years, except with the consent in writing of the Minister of Education, and upon the report of the principal of the institution to the Minister of the particulars and special circumstances which, in his opinion, justify such admission.

Maintenance, cost of.

(2) Where a person is admitted under subsection 1 the Minister shall determine how the cost of his maintenance and support shall be borne.

Report to be made half-yearly.

(3) The principal of the institution shall report half-yearly to the Minister whether in his opinion the terms upon which the person is maintained and supported should be continued, giving the particulars and special circumstances upon which his opinion is founded.

Discharge or variation in terms.

(4) The Minister may at any time direct the discharge of any such person or may vary the terms upon which he is being supported and maintained in the institution. R.S.O. 1937, c. 365, s. 6.

CHAPTER 351

The Securities Act

INTERPRETATION

1. In this Act,

Interpre-
tation.

(a) "broker" means any person or company, trading in securities in the capacity of an agent, who is a member of a stock exchange in Ontario and such other person or company, trading in securities in the capacity of an agent, who is recognized by the Commission as a broker;

(b) "broker-dealer" means any person or company who is a member of the Broker-Dealers' Association of Ontario and such other person or company recognized by the Commission as a broker-dealer who engages either for the whole or part of his or its time in the business of trading in securities in the capacity of an agent or principal;

(c) "Commission" means Ontario Securities Commission;

(d) "company" means any incorporated corporation, incorporated association, incorporated syndicate or other incorporated organization;

(e) "industrial company" means a company other than a company recognized by the Commission as a mining company or investment company; 1947, c. 98, s. 1, cls. (a-e).

(f) "investment company" means a company, other than a company recognized by the Commission as a mining company or an industrial company, whose principal business is the acquisition of or the investment in the securities of other companies whether for the purpose of acquiring control or management of such companies or for the purpose of deriving revenue from such securities and includes a company, other than an issuer within the meaning of *The Investment Contracts Act*, which issues investment certificates, investment contracts, savings certificates, savings contracts or securities of a like nature; 1947, c. 98, s. 1, cl. (f); 1948, c. 82, s. 1 (1).

Rev. Stat.,
c. 187.

- (g) "investment counsel" means any person or company who engages in or holds himself or itself out as engaging in the business of advising others, either directly or through publications or writings, as to the advisability of investing in or purchasing or selling specific securities;
- (h) "investment dealer" means any person or company who is a member, branch office member or associate member of the Central District of the Investment Dealers' Association of Canada and such other person or company recognized by the Commission as an investment dealer who engages either for the whole or part of his or its time in the business of trading in securities in the capacity of an agent or principal;
- (i) "mining company" means a company, other than a company recognized by the Commission as an industrial company or an investment company, which engages either directly or indirectly in any mode or method of working whereby the ground, soil or earth or any rock, stone or quartz may be disturbed, removed, drilled, washed, sifted, roasted, smelted, refined, crushed or dealt with for the purpose of winning, obtaining or proving the presence of any mineral or minerals, which includes in addition to any other minerals, any metal, coal, natural gas, oil and salt, or of any mineral-bearing substance, mineral deposit, ore body, stratum, soil, rock, bed of earth, clay, sand, gravel or cement;
- (j) "official" means president, vice-president, secretary, treasurer and manager;
- (k) "person" means an individual, partnership, unincorporated association, unincorporated organization, and syndicate other than an incorporated syndicate;
- (l) "primary distribution to the public" used in relation to securities means,
 - (i) trades which are made for the purpose of distributing to the public securities issued by a company and not previously distributed,
 - (ii) trades in previously distributed securities for the purpose of redistributing such securities to the public where the securities form all or a part of or are derived from the holdings of any person or company or any combination of persons or companies holding a sufficient

quantity of such securities or of the securities from which such securities have been derived to materially affect the control of the company which is the issuer of the securities,

whether such trades are made directly to the public or through an underwriter, optionee, sub-underwriter, sub-optionee or otherwise and includes any transaction involving a purchase and resale, or a repurchase and resale, in the course of or incidental to such distribution or redistribution to the public but does not include either a trade through a person or company registered for trading in securities under this Act who is not engaged in such distribution or redistribution to the public but is acting as the agent of the purchaser or a sale by a person or company not engaged in such distribution or redistribution to the public;

- (m) "register" means register under this Act;
- (n) "registrar" means registrar of the Commission appointed under this Act;
- (o) "regulations" means regulations made under this Act;
- (p) "salesman" means an individual registered as a salesman under this Act; 1947, c. 98, s. 1, cls. (g-p).
- (q) "security" includes,
 - (i) any document, instrument or writing commonly known as a security,
 - (ii) any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company,
 - (iii) any document constituting evidence of an interest in an association of legatees or heirs,
 - (iv) any document constituting evidence of an interest in any option given upon a security,
 - (v) any bond, debenture, share, stock, note, unit, unit certificate, participation certificate, certificate of share or interest, pre-organization certificate or subscription,
 - (vi) any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company,

Rev. Stat.,
c. 187.

- (vii) any certificate of share or interest in a trust estate or association,
- (viii) any profit-sharing agreement or certificate,
- (ix) any certificate of interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate,
- (x) any oil or natural gas royalties or leases or fractional or other interest therein,
- (xi) any collateral trust certificate,
- (xii) any income or annuity contract not issued by an insurance company or an issuer within the meaning of *The Investment Contracts Act*,
- (xiii) any bankers' share,
- (xiv) any trustees' share,
- (xv) any investment contract other than an investment contract within the meaning of *The Investment Contracts Act*, or
- (xvi) any investment participating bond or investment trust debenture,

whether any of the foregoing relate to a person, proposed company or company as the case may be; 1947, c. 98, s. 1, cl. (q); 1948, c. 82, s. 1 (2, 3).

- (r) "security issuer" means a company which engages in the primary distribution to the public of securities of its own issue;
- (s) "sub-broker-dealer" means an individual who, being retired from active business or as incidental to his principal occupation and as correspondent of any investment dealers or broker-dealers or both, trades in securities for a part of his time in the capacity of an agent or principal;
- (t) "trade" or "trading" includes,
 - (i) any solicitation for or obtaining of a subscription to, disposition of or trade in or option upon a security for valuable consideration whether the terms of payment be upon margin, instalment or otherwise,
 - (ii) any attempt to deal in, sell or dispose of a security or an interest in or option upon a security for valuable consideration whether

the terms of payment be upon margin, instalment or otherwise,

- (iii) any participation as a floor trader in any transaction in a security upon the floor of any stock exchange,
- (iv) any receipt by a person or company registered for trading in securities under this Act of an order to buy or sell a security, whether the order is received over the telephone or in person, and
- (v) any act, advertisement, conduct or negotiation directly or indirectly in furtherance of any of the foregoing. 1947, c. 98, s. 1, cls. (r-t).

PART I

THE COMMISSION

2.—(1) The Commission shall be composed of a chairman and not more than two other members, one of whom shall be designated as vice-chairman, who shall be appointed by the Lieutenant-Governor in Council. Commission, how composed.

(2) The chairman shall devote his full time to the work of the Commission and the other members shall devote such time as may be necessary for the due exercise and performance of the powers and duties of the Commission. 1947, c. 98, s. 2. Duties of chairman and members.

3. The chairman, and in his absence the vice-chairman, may exercise and shall perform the powers and duties vested in or imposed upon the Commission by this Act or the regulations, but every direction, decision, order or ruling of the chairman or the vice-chairman shall be subject to review by the Commission, and the Commission may confirm or revoke any such direction, decision, order or ruling or may make such alteration therein or addition thereto as a majority of the members deem proper. 1947, c. 98, s. 3. Acts of chairman or vice-chairman subject to review.

4. The staff of the Commission shall consist of a registrar and such other officers, clerks, stenographers and employees as the Lieutenant-Governor in Council may appoint. 1947, c. 98, s. 4. Staff.

5.—(1) The members of the Commission, the registrar and the officers, clerks, stenographers and employees of the Commission shall be paid such salaries or remuneration as the Lieutenant-Governor in Council may determine. Salaries.

Payment of salaries and other expenses.

(2) The salaries, remuneration and other expenses of the Commission shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1947, c. 98, s. 5.

PART II

REGISTRATION

Persons and companies required to register for trading in securities.

6.—(1) No person or company shall,

- (a) trade in any security unless such person or company is registered as a broker, investment dealer, broker-dealer, sub-broker-dealer, security issuer or as a salesman of a registered broker, investment dealer, broker-dealer or security issuer;
- (b) act as a partner or officer of or on behalf of any person or company in connection with a trade in any security by such person or company unless such person or company is registered for trading in securities under this Act;
- (c) act as a salesman of or on behalf of any person or company in connection with a trade in any security by such person or company unless he is registered as a salesman of such person or company and such person or company is registered as a broker, investment dealer, broker-dealer or security issuer; or
- (d) act as an investment counsel unless such person or company is registered as an investment counsel,

and such registration has been made in accordance with the provisions of this Act and the regulations and such person or company, as the case may be, has received written notice of such registration from the registrar.

When separate registration of partners, officers and officials not required.

(2) Where a person or company is registered as a broker, investment dealer, broker-dealer or investment counsel, every partner or officer of such person or company may act as a broker, investment dealer, broker-dealer or investment counsel, as the case may be, on behalf of such person or company, without separate registration and where a company is registered as a security issuer the officials thereof may act on its behalf in connection with a trade in a security by such company without separate registration.

New partners or officers must be approved.

(3) No individual who becomes a partner or officer of a person or company after such person or company has been registered shall trade in securities until such person or company has received from the registrar written permission for such partner or officer so to trade.

(4) The termination of the employment of a salesman with a person or company registered for trading in securities under this Act shall operate as a suspension of the registration of the salesman until notice in writing has been received by the registrar from a person or company registered for trading in securities under this Act of the employment of the salesman and the employment has been approved by the Commission. 1947, c. 98, s. 6.

Termination
of employ-
ment of
salesman.

7. The Commission shall grant registration or renewal of registration to an applicant where in the opinion of the Commission the applicant is suitable for registration and the proposed registration is not objectionable. 1947, c. 98, s. 7.

Registration.

8. The Commission shall suspend or cancel any registration where in its opinion such action is in the public interest. 1947, c. 98, s. 8.

Suspension,
cancellation.

9. Notwithstanding any ruling of the Commission a further application for registration may be made upon new or other material or where it is clear that material circumstances have changed, provided that no further application for registration shall be made within six months of such ruling unless leave is first obtained from the Commission. 1947, c. 98, s. 9.

Further
applications.

10. Every application shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. 1949, c. 93, s. 1.

Application
to be upon
forms with
proper fees.

11. Every applicant shall state in the application an address for service in Ontario, and all notices under this Act or the regulations shall be sufficiently served for all purposes if delivered or sent by prepaid post to the latest address for service so stated. 1947, c. 98, s. 11.

Address for
service.

12. The registrar may and shall when so directed by the Commission require any further information or material to be submitted by any applicant or any registered person or company within a specified time limit and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registered person or any partner, officer, director or employee of the registered person or company to submit to examination under oath. 1947, c. 98, s. 12; 1948, c. 82, s. 2.

Further
information.

13.—(1) The Commission may appoint one or more experts to assist the Commission in such manner as it may deem expedient.

Appoint-
ment of
experts.

Submission
of documents
to experts.

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection 1 for examination and the Commission shall have the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission by subsection 3 of section 21 and subsections 3 and 4 of section 21 shall apply *mutatis mutandis*.

Payment for
services.

(3) An expert appointed under subsection 1 shall be paid such amounts for services and expenses as the Lieutenant-Governor in Council may determine. 1947, c. 98, s. 13.

Residence.

14.—(1) Registration may, in the absolute discretion of the Commission, be refused to any person who has not been a resident of Ontario for at least one year immediately prior to the date of application for registration with the intention of making his permanent home in Ontario, unless at the time of application such person is registered in a capacity corresponding to that of a broker, investment dealer, broker-dealer, sub-broker-dealer, security issuer, investment counsel or salesman under the security laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is otherwise suitable for registration.

Idem.

(2) Where a company or partnership makes application for registration, the registration may, in the absolute discretion of the Commission, be refused, unless every officer and director, or every member, as the case may be, has been a resident of Ontario for at least one year immediately prior to the date of application for registration with the intention of making his permanent home in Ontario or is registered in a capacity corresponding to that of a broker, investment dealer, broker-dealer, sub-broker-dealer, security issuer, investment counsel or salesman under the security laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is otherwise suitable for registration.

Service in
the forces.

(3) For the purposes of this section a person shall not be deemed to cease to reside in Ontario by reason only of his absence from Ontario as a member of His Majesty's armed forces. 1947, c. 98, s. 14.

Termination
and renewal
of registra-
tion.

15. Every registration and renewal of registration shall lapse on the 31st day of March in each year and every registered person or company shall apply for renewal of registration on or before the 1st day of March in each year giving full particulars of any change in the facts set forth in the latest

application form on record, and enclosing the prescribed fee.
1947, c. 98, s. 15.

16.—(1) Every registered broker, investment dealer and broker-dealer shall, within five days, notify the registrar in writing of, Change in registration of broker, investment dealer and broker-dealer.

- (a) any change in the address for service;
- (b) any change in the officers or members in the case of a company or partnership; and
- (c) the commencement and termination of employment of every salesman.

(2) Every registered security issuer shall, within five days, notify the registrar in writing of, Security issuer.

- (a) any change in the address for service;
- (b) any change in the officials; and
- (c) the commencement and termination of employment of every salesman.

(3) Every registered investment counsel shall, within five days, notify the registrar in writing of, Investment counsel.

- (a) any change of the address for service; and
- (b) any change in the officers or members in the case of a company or partnership.

(4) Every registered salesman shall, within five days notify the registrar in writing of, Salesmen.

- (a) any change in his address for service; and
- (b) every commencement and termination of his employment by a person or company registered for trading in securities under this Act.

(5) Every registered sub-broker-dealer shall, within five days, notify the registrar in writing of any change in his address for service. 1947, c. 98, s. 16. Sub-broker-dealer.

17.—(1) The registrar shall cause all cash, cheques, money orders and postal notes to be deposited daily with the Treasurer of Ontario for payment into the Consolidated Revenue Fund. Registrar to make daily deposit.

(2) Where an application is refused or a registration is cancelled the registrar may recommend to the Treasurer of Ontario that a refund of the fee or of such part thereof as he deems fair and reasonable be made and the Treasurer may make such refund. 1947, c. 98, s. 17. Refund.

EXEMPTION FROM REGISTRATION

Exemptions
from regis-
tration as
investment
counsel,

banks, loan,
trust and
insurance
companies,
public
officers;

1944-45,
cc. 30, 44
(Can.).

Rev. Stat.,
cc. 214, 183.

lawyers,
accountants,
engineers
and teachers;

persons or
companies
registered
for trading
in securities,
etc.;

certain
publishers;

persons or
companies
designated
by Com-
mission.

Exemptions
from regis-
tration re cer-
tain trades.

Judicial
sales.

18. Registration as an investment counsel shall not be required to be obtained by,

- (a) a bank to which *The Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under *The Industrial Development Bank Act* (Canada), or a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*, or any officer or employee, in the performance of his duties as such, of His Majesty in right of Canada or of any province, or of any municipal corporation or public board or commission in Canada;
- (b) a lawyer, accountant, engineer or teacher whose performance of such services is solely incidental to the practice of his profession;
- (c) a person or company registered for trading in securities under this Act, or any partner, officer or employee thereof, whose performance of such services is solely incidental to the conduct of the business as such, and who receives no special compensation therefor other than compensation paid or given by a mining, industrial or investment company in respect of any services performed for such company;
- (d) a publisher of any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an investment counsel only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commissions or other consideration for giving the advice and who gives the advice as solely incidental to the conduct of his business as a publisher; or
- (e) such other persons or companies not within the intent of this section as may be designated by the regulations. 1947, c. 98, s. 18; 1948, c. 82, s. 3.

19.—(1) Subject to the regulations, registration shall not be required in respect of the following trades:

- (a) A trade in a security taking place at a judicial, executor's, administrator's, guardian's or committee's sale, or at a sale by an authorized trustee or assignee, an

interim or official receiver or a custodian under the *Bankruptcy Act* (Canada), a receiver under *The R.S.C., 1927,*
Judicature Act or a liquidator under *The Companies Rev. Stat.,*
Act or the *Winding-up Act* (Canada). cc. 11, 213;
 cc. 59, 190.

- (b) An isolated trade in a specific security by or on behalf of the owner, for the owner's account, where such trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person whose usual business is trading in securities. Isolated transactions by owner.

- (c) A trade where one of the parties is a bank to which *The Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under *The Industrial Development Bank Act* (Canada), or a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*, or is an officer or employee, in the performance of his duties as such, of His Majesty in right of Canada or of any province or territory of Canada, or of any municipal corporation or public board or commission in Canada. Banks, loan, trust and insurance companies, public officers.
1944-45, cc. 30, 44 (Can.).
Rev. Stat., cc. 183, 214.

- (d) A trade by or for the account of a pledgee or mortgagee for the purpose of liquidating a *bona fide* debt by selling or offering for sale or delivering in good faith in the ordinary course of business a security pledged in good faith as security for the debt. Sale of pledged security.

- (e) A trade in a security which may occasionally be transacted by employees of a person or company registered for trading in securities under this Act where the employees do not usually sell securities to the public and have been temporarily designated by the registrar as "non-trading" employees, either individually or as a class. Non-trading employees' transactions.

- (f) A trade between a person or company and an underwriter, optionee, sub-underwriter or sub-optionee in securities issued by such person or company and trades in such securities between or among underwriters, optionees, sub-underwriters and sub-optionees. 1947, c. 98, s. 19 (1), cls. (a-f). Trades between issuer and underwriter.

- (g) A trade in a security by a person or company acting solely through an agent who is a person or company registered for trading in securities under this Act. 1947, c. 98, s. 19 (1), cl. (g); 1948, c. 82, s. 4 (1). Company selling securities through agent.

- (h) Trades in respect of which registration is not required by the regulations. 1947, c. 98, s. 19 (1), cl. (h). Trades exempted by regulations.

Exemptions
from regis-
tration
re certain
securities.

Stock
dividends,
distribution
of earnings,
etc.

(2) Subject to the regulations, registration shall not be required to trade in the following securities:

(a) Securities of its own issue which are distributed or issued by a company to the holders of its securities as a stock dividend or other distribution out of earnings or surplus, or securities whether of its own issue or not which are distributed or issued by such company to the holders of its securities as incidental to a *bona fide* re-organization or winding-up of the company or distribution of its assets for the purpose of winding-up its affairs, or the sale by a company to the holders of its securities of additional securities of its own issue, provided that no commission or other remuneration is paid or given to others in respect of such distribution, issuance or sale, except for ministerial or professional services or services performed by a person or company registered for trading in securities under this Act in connection with a *bona fide* re-organization of the company. 1947, c. 98, s. 19 (2), cl. (a); 1948, c. 82, s. 4 (2).

Exchange on
merger.

(b) Securities of a company which are exchanged by or on account of such company with another company or the holders of the securities of such other company in connection with a consolidation, amalgamation, merger or re-organization of either company.

Government
securities.

(c) Securities of or guaranteed by any government in the Commonwealth of Nations or any colony or dependency thereof, or of or guaranteed by the government of any foreign country or state forming a portion of any foreign country.

Trust funds.

(d) Securities in which trust funds may lawfully be invested in Ontario.

Secured
bonds.

(e) Securities secured by mortgage upon real estate or tangible personal property where all of the securities are sold at the one time.

Negotiable
paper.

(f) Negotiable promissory notes or commercial paper maturing not more than a year from the date of issue.

Securities
based upon
conditional
sales.

(g) Securities evidencing indebtedness due under any contract made pursuant to the provisions of any statute of any province of Canada providing for the acquisition of personal property under conditional sale contracts.

Shares of
non-profit
sharing
companies.

(h) Securities issued by a person or company organized exclusively for educational, benevolent, fraternal,

charitable, religious or recreational purposes and not for pecuniary profit, where no part of the net earnings thereof enure to the benefit of any security holder.

- (i) Securities issued by corporations operated on a co-operative basis as defined by Part XII of *The Companies Act*. Co-operative corporations. Rev. Stat., c. 59.
- (j) Shares of a credit union within the meaning of *The Credit Unions Act*. Shares of credit union. Rev. Stat., c. 79.
- (k) Securities traded by a company with its employees who are not induced to trade by expectation of employment or continued employment. Company stock sales to employees.
- (l) Securities of a private company issued by the private company where the securities are not offered for sale to the public. Securities of private company.
- (m) Securities issued and sold by a prospector for the purpose of financing a prospecting expedition. Prospector's "grub stake".
- (n) Securities issued by a prospecting syndicate where such securities are sold by the prospector or one of the prospectors who staked the claims which belong to or are the subject of a declaration of trust in favour of the prospecting syndicate within the meaning of Part VI, provided that a prospecting syndicate agreement relating to the prospecting syndicate has been accepted for filing thereunder and provided that the prospector delivers a copy of the prospecting syndicate agreement to the person purchasing the security before accepting payment therefor. Syndicate units, sale by prospector.
- (o) Securities of a prospecting syndicate within the meaning of Part VI, issued by the prospecting syndicate, where a prospecting syndicate agreement relating to the prospecting syndicate has been accepted for filing thereunder and where such securities are not offered for sale to the public and are sold to not more than 50 persons or companies. Syndicate units when sold to not more than 50 persons or companies.
- (p) Securities in respect of which registration is not required by the regulations. 1947, c. 98, s. 19 (2), cls. (b-p). Securities exempted by regulations.
- (3) Where any prospector has been guilty of acts or conduct which, in the opinion of the Commission, would warrant the Commission refusing to grant registration to him under this Act, the Commission may rule that clauses *m* and *n* of subsection 2 shall not apply to him or to any member of a prospecting syndicate of which he is a member. 1947, c. 98, s. 19 (3). Where exemptions not to apply to prospector.

Floor
traders.

20.—(1) A person shall not be required to obtain registration by reason only of trades made by him as a floor trader upon the floor of a stock exchange.

Non-trading
employees.

(2) The registrar may designate as "non-trading" any employee or class of employees of a person or company registered for trading in securities under this Act who do not usually sell securities to the public, but the designation shall be temporary only and may be cancelled as to any employee or class of employees where the registrar is satisfied that any such employee or member of any such class of employees should be required to apply for registration as a salesman. 1947, c. 98, s. 20.

PART III

INVESTIGATION AND ACTION BY COMMISSION

Order to
investigate.

21.—(1) Where upon a statement made under oath it appears probable to the Commission that any person or company has,

(a) violated any of the provisions of this Act or the regulations; or

R.S.C., 1927,
c. 36.

(b) committed an offence under the *Criminal Code* (Canada) in connection with a trade in securities,

the Commission may by order appoint any person to make such investigation as it deems expedient for the due administration of this Act and in the order shall determine and prescribe the scope of the investigation.

Scope of
investigation.

(2) For the purposes of any investigation ordered under subsection 1 the person appointed to make the investigation may investigate, inquire into and examine,

(a) the affairs of the person or company in respect of whom or which the investigation is being made and into any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person or company and into any property, assets or things owned, acquired or alienated in whole or in part by such person or company or by any person or company acting on behalf of or as agent for such person or company; and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to, or in connection with any such person or company and into the relationship which

may at any time exist or have existed between such person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

(3) For the purposes of subsections 1 and 2 the person making the investigation shall have the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things as is vested in the Supreme Court or a judge thereof for the trial of civil actions, provided that,

Power to
summon
witnesses
and require
production.

(a) the provisions of rules of court or of law relating to the service of subpoenas upon and to the payment of conduct money or witness fees to witnesses shall not apply;

(b) no person shall be entitled to claim any privilege in respect of any document, record or thing asked for, given or produced on the ground that he might be incriminated or exposed to a penalty or to civil litigation thereby;

(c) no person shall refuse to answer any question upon any ground of privilege, provided that a solicitor shall not be required to disclose any communications between himself and his client; and

(d) no provisions of *The Evidence Act* shall exempt any bank or any officer or employee thereof from the operations of this section.

Rev. Stat.,
c. 119.

(4) Where an investigation is ordered under this section the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company the affairs of whom or of which are being investigated.

Seizure of
property.

(5) Where an investigation is ordered under this section the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company the affairs of whom or of which are being investigated.

Accountants;
other
experts.

(6) Every person appointed under subsection 1 or 5 shall report the result of his investigation or examination to the Commission. 1947, c. 98, s. 26.

Report of
investigation.

Report to
Attorney-
General.

22. Where upon the report of an investigation made under section 21 it appears to the Commission that any person or company may have,

(a) violated any of the provisions of this Act or the regulations; or

R.S.C. 1927,
c. 36.

(b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to securities,

the Commission shall send a full and complete report of the investigation including the report made to it, any transcript of evidence and any material in the possession of the Commission relating thereto, to the Attorney-General. 1947, c. 98, s. 27.

Investigation
under order
of Attorney-
General.

23. Notwithstanding section 21, the Attorney-General may by order appoint any person to make an investigation into any matter relating to a trade in securities, in which case the person so appointed shall, for the purposes of the investigation, have the same authority, powers, rights and privileges as a person appointed under section 21. 1947, c. 98, s. 28.

Evidence
not to be
disclosed.

24. No person, without the consent of the Commission, shall disclose any information or evidence obtained or the name of any witness examined or sought to be examined under section 21 or 23. 1947, c. 98, s. 29.

Reporting
to Attorney
General,
publication
of report.

25. Where an investigation has been made under section 21 the Commission may, and where an investigation has been made under section 23 the person making the investigation shall, report the result thereof including the evidence, findings, comments and recommendations, to the Attorney-General and the Attorney-General may cause the report to be published in whole or in part in such manner as he deems proper. 1947, c. 98, s. 30.

Order to hold
or refrain
from dealing
with funds.

26.—(1) The Commission may,

(a) where it is about to investigate or during or after the investigation of any person or company under section 21 or 23;

(b) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or

(c) where criminal proceedings or proceedings in respect of a violation of this Act or the regulations are about

to be or have been instituted against any person or company which in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause *a*, *b* or *c*, to hold such funds or securities or direct the person or company referred to in clause *a*, *b* or *c* to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Companies Act* or the *Winding-up Act* (Canada), or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, provided that no such direction shall apply to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company the direction shall only apply to the offices, branches or agencies thereof named in the direction.

R.S.C. 1927,
cc. 11, 213;
Rev. Stat.,
cc. 190, 59.

(2) Any person or company in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any funds or security, or in case of a claim being made thereto by any person or company not named in the direction, may apply to the Supreme Court or a judge thereof who may direct the disposition of such funds or security and may make such order as to costs as may seem just.

Application
for direction.

(3) In any of the circumstances mentioned in clause *a*, *b* or *c* of subsection 1, the Commission may in writing or by telegram notify any registrar of deeds or master of titles or any local master of titles or any mining recorder that proceedings are being or are about to be taken which may affect land or mining claims belonging to the person or company referred to in the notice which notice shall be registered against the lands or claims mentioned therein and shall have the same effect as the registration of a certificate of *lis pendens*, save that the Commission may in writing revoke or modify the notice. 1947, c. 98, s. 31.

Notice to
registrars
of deeds or
masters of
titles.

27.—(1) The Commission may,

(a) where it is about to investigate or during or after the investigation of any person or company under section 21 or 23;

Application
for appoint-
ment of
receiver,
trustee and
manager.

- (b) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or
- (c) where criminal proceedings or proceedings in respect of a violation of this Act or the regulations are about to be or have been instituted against any person or company which in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,

by originating notice apply to a judge of the Supreme Court for the appointment of a receiver, trustee and manager of the property of such person or company.

Appoint-
ment.

(2) Upon an application made under subsection 1, the court may, where it is satisfied that the appointment of a receiver, trustee and manager of the property of any person or company is in the best interests of the creditors of such person or company or of persons or companies any of whose property is in the possession or under the control of such person or company, appoint a receiver, trustee and manager of the property of such person or company.

Ex parte
application.

(3) Upon an *ex parte* application made by the Commission under this section the court may make an order under subsection 2 appointing a receiver, trustee and manager for a period not exceeding eight days.

Powers of
receiver,
trustee and
manager.

(4) A receiver, trustee and manager of the property of any person or company appointed under this section shall be the receiver, trustee and manager of all of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, trustee and manager shall have authority, if so directed by the court, to wind-up or manage the business and affairs of the person or company and all powers necessary or incidental thereto.

Enforcement
of order.

(5) An order made under this section may be enforced in the same manner as any other order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

Rules of
practice
to apply.

(6) Upon an application made under this section the rules of practice of the Supreme Court shall apply. 1947, c. 98, s. 32.

PART IV

APPEALS

28. A notice of every direction, decision, order or ruling of the Commission,

Notice of
direction,
decision, etc.

- (a) granting or refusing to grant registration to or renewing, refusing to renew, suspending, cancelling or changing the registration of any person or company; or
- (b) regarding trading or the right to trade in securities or any conditions or restrictions relating thereto,

shall be served upon the applicant or the person or company whose registration is thereby affected and upon such other person or company as in the opinion of the Commission is primarily affected by the direction, decision, order or ruling, at the address appearing in the application or upon the records of the Commission. 1947, c. 98, s. 33.

29.—(1) Any person or company upon whom a notice is served under section 28 or any other person or company who is primarily affected by any such direction, decision, order or ruling may, by notice in writing served upon the registrar within 30 days after the mailing of the notice, request a hearing and review by the Commission of the direction, decision, order or ruling. Review by Commission.

(2) Where a hearing and review is requested under subsection 1 the registrar shall serve a notice in writing of the time and place thereof to the person or company requesting the hearing and review and to such other person or company as in the opinion of the Commission is primarily affected by the hearing, stating the date and place thereof. Notice of hearing.

(3) Upon the review the Commission may hear such evidence as may be submitted to it by the person or company requesting the review or by any other person or company and which in the opinion of the Commission is relevant to the review but shall not be bound by the legal or technical rules of evidence and all oral evidence submitted shall be taken down in writing and together with such documentary evidence and things as are received in evidence by the Commission shall form the record. Evidence.

(4) Upon a review the Commission may by order confirm or revoke the direction, decision, order or ruling under review or may make such alteration therein or addition thereto as a majority of the members of the Commission deem proper. Power on review.

(5) A notice of the order made upon every review shall be served forthwith upon the person or company requesting the review and to such other person or company as in the opinion of the Commission is primarily affected by such order. 1947, c. 98, s. 34. Notice of order on review.

30.—(1) Where the Commission has reviewed a direction, decision, order or ruling under section 29 any person or com- Appeal to Supreme Court.

pany upon whom a notice is served under subsection 5 of section 29 or any other person or company who is primarily affected by any such direction, decision, order or ruling or by the order made upon the review, may appeal to a justice of appeal of the Supreme Court.

Form of
appeal.

(2) Every appeal shall be by notice of motion served upon the registrar within 30 days after the mailing of the notice under subsection 5 of section 29 and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, provided that the Rules Committee may vary or amend such practice and procedure or may prescribe the practice and procedure which shall be applicable to appeals taken under this Act.

Certificate
of registrar.

(3) The registrar shall certify to the Registrar of the Supreme Court of Ontario,

- (a) the direction, decision, order or ruling which has been reviewed by the Commission;
- (b) the order of the Commission upon the review, together with any statement of reasons therefor;
- (c) the record of the review; and
- (d) all written submissions to the Commission or other material which in the opinion of the registrar are relevant to the appeal.

Counsel.

(4) The Attorney-General may designate counsel to assist the court upon the hearing of any appeal which is taken under this section. 1947, c. 98, s. 35.

Order of
court.

31. Where an appeal is taken under section 30 the court may by its order direct the Commission to make such direction, decision, order or ruling or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the court deems proper having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such direction, decision, order or ruling or do such act accordingly. 1947, c. 98, s. 36.

Further
direction,
etc.

32. An order of the court shall be final and there shall be no appeal therefrom but notwithstanding such order the Commission shall have power to make any further direction, decision, order or ruling upon new material or where there is a material change in the circumstances, and every such direction, decision, order or ruling shall be subject to sections 28 to 31. 1947, c. 98, s. 37.

PART V

AUDITS

33. Every stock exchange, the Central District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall, Panel of auditors.

- (a) select a panel of auditors each of whom shall have practised as such in Ontario for not less than five years and shall be known as a panel auditor or members' auditor; and
- (b) employ an exchange auditor, district association auditor or association auditor, as the case may be, whose appointment shall be subject to the approval of the Commission and the appointee shall be an auditor who has practised as such in Ontario for not less than ten years. 1947, c. 98, s. 38.

34.—(1) Every stock exchange, the Central District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under section 33 and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, district association auditor or association auditor, as the case may be. Audits by stock exchanges and associations.

(2) The by-laws, rules and regulations of every stock exchange in Ontario, the rules and regulations of the Central District of the Investment Dealers' Association of Canada and the regulations of the Broker-Dealers' Association of Ontario in respect of the practice and procedure of the examinations under subsection 1 and the actual conduct of the examinations shall be satisfactory to the Commission. 1947, c. 98, s. 39. Auditing by-laws, etc. to be satisfactory to Commission.

35. Every registered broker, investment dealer and broker-dealer whose financial affairs are not subject to examination under section 34 shall keep such books and records as are necessary for the proper recording of his or its business transactions and financial affairs and shall file with the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to his or its financial position, certified by such broker, investment dealer or broker-dealer, or an officer or partner thereof, and reported upon by the auditors of such broker, investment dealer, or broker-dealer, and such other Annual financial statement, filing of.

information as the Commission may require in such form as it may prescribe. 1947, c. 98, s. 40.

Commis-
sion to
make audits.

36.—(1) Notwithstanding anything in sections 33, 34 and 35, the Commission or any person to whom as its representative it may in writing delegate such authority may at any time make an examination of the financial affairs of any person or company registered under this Act or any person or company whose securities have been the subject of a filing with the Commission, and prepare a balance sheet as of the date of such examination and such other statements and reports as may be required by the Commission.

Access to
books,
securities,
etc.

(2) The Commission or any person making an examination under this section shall be entitled to free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose financial affairs are being examined and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

Fees.

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. 1947, c. 98, s. 41.

PART VI

PROSPECTING SYNDICATES AND SECURITIES ISSUED BY A PERSON

Agreements.

37.—(1) Upon the acceptance for filing of a prospecting syndicate agreement by the Commission, the liability of the members of the syndicate or parties to the agreement shall be limited to the extent provided by the terms of the agreement where,

- (a) the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties or any combination thereof;
- (b) the agreement clearly sets out,
 - (i) the purpose of the syndicate,
 - (ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,
 - (iii) the maximum amount, not exceeding 25 per cent of the sale price, which may be charged or taken by any person as commission upon the sale of units in the syndicate,

- (iv) the maximum number of units in the syndicate, not exceeding thirty-three and one-third per cent of the total number of units of the syndicate, which may be issued in consideration of the transfer to the syndicate of mining properties,
- (v) the location of the head office of the syndicate and that the head office shall at all times be maintained in Ontario and that the Commission and the unit holders of the syndicate shall be notified immediately of any change in the location of the head office,
- (vi) that any person holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,
- (vii) that after the sale for cash of any issued units of the syndicate, no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by a vote of at least two-thirds of the units of the syndicate which have been sold for cash,
- (viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, shall be limited to one-third of the total amount received by the treasury of the syndicate from the sale of its units,
- (ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Commission and to each unit holder annually,
- (x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Commission and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash,
- (xi) that no securities other than those of the syndicate's own issue, or no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by a vote of at least two-thirds of the issued units of the syndicate other than escrowed units; and

- (c) the agreement limits the capital of the syndicate to a sum not exceeding \$35,000.

Commission
may file.

(2) The Commission may in its discretion accept for filing any agreement submitted for filing under this section and shall not be required to determine whether it is in conformity with clauses *a*, *b* and *c* of subsection 1.

Rev. Stat.,
c. 271 not
to apply.

(3) Where a prospecting syndicate agreement is accepted for filing under this section, the requirements of *The Partnerships Registration Act* as to filing shall not apply thereto. 1947, c. 98, s. 42 (1-3).

Prohibition
of trading
in securities
issued by
syndicate.

(4) No person or company registered for trading in securities under this Act shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal.

Trading in
securities
issued by
person.

(5) No person or company registered for trading in securities under this Act shall trade in a security issued by a person, other than a prospecting syndicate, either as agent for such person or as principal unless,

- (a) written permission, upon such terms as the Commission may require, has been obtained from the Commission; and
- (b) information satisfactory to the Commission relating to such person and such security has been accepted for filing by the Commission. 1948, c. 82, s. 5 (2).

PART VII

TRADING IN THE SECURITIES OF A MINING COMPANY

Trades in a
security
issued by a
mining
company on
primary
distribution
to the public.

38.—(1) No person or company shall trade in any security issued by a mining company either on his or its own account or on behalf of any other person or company where such trade would be in the course of a primary distribution to the public of such security until there has been filed with the Commission a prospectus, and a receipt therefor obtained from the registrar, which prospectus shall be dated and signed by every person who is, at the time of filing, a director or promoter of the mining company issuing the security or an underwriter or optionee of such security, and which prospectus shall contain a full, true and plain disclosure relating to the security issued and shall set forth,

- (a) the full name of the company and the address of the head office;
- (b) the laws under which the company was incorporated and stating whether incorporated by letters patent

or otherwise and the date thereof, and if supplementary letters patent or a similar authority for variation of the letters patent or otherwise has been issued so stating with the date thereof;

- (c) the officers, directors and promoters giving in each case the name in full, present occupation and home address in full;
- (d) the name and address of the auditors;
- (e) the name and address of every registry and transfer agency;
- (f) the particulars of the share capital authorized, issued and paid up, the number and classes of shares and the par value thereof, or if without par value so stating;
- (g) the particulars in respect of any bonds, or debentures outstanding or proposed to be issued;
- (h) the number of shares or other securities held in escrow, the name of the trustee and a summary of the provisions of the escrow agreement including the proposed plan of release from escrow;
- (i) the shares sold for cash to date tabulated under each class of shares as follows:
 - (i) the number of shares sold, separately listed as to price,
 - (ii) the total cash received for the shares sold, and
 - (iii) the commissions paid on the sale of the shares;
- (j) the particulars of securities, other than shares, sold for cash to date as follows:
 - (i) the securities sold,
 - (ii) the total cash received for the securities sold, and
 - (iii) the commissions paid on the sale of the securities;
- (k) the number of shares issued or to be issued or cash paid or to be paid to any promoter with his name and address and the consideration for the payment;
- (l) particulars as follows:
 - (i) the official designation and location of all properties, showing whether owned, leased or held under option or intended to be acquired by the company and all material facts relating to leases or options,

- (ii) the names and addresses of all vendors of property purchased or intended to be purchased by the company, showing the consideration paid or intended to be paid to each vendor, and the property acquired from each, and
 - (iii) the names and addresses in full of every person or company who has received or is to receive from any vendor a greater than five per cent interest in the shares or other consideration received or to be received by the vendor;
- (m) the particulars relating to all properties as follows:
- (i) the means of access thereto,
 - (ii) the character, extent and condition of any underground exploration and development and any underground plant and equipment, and if none so state,
 - (iii) the character, extent and condition of any surface exploration and development and any surface plant and equipment, and if none so state,
 - (iv) the known history of the property, and
 - (v) a description of any work done and improvements made by the present management, and if none so state; 1947, c. 98, s. 43 (1), cls. (a-m).
- (n) the particulars of the securities, if any, covered by option agreements or underwriting agreements outstanding or proposed to be given and particulars of sub-option agreements or sub-underwriting agreements outstanding or proposed to be given and particulars of any assignments or proposed assignments of any such agreements and the price or prices at which and the date or dates by which the option agreements or underwriting agreements must be exercised, showing the name of the optionee and where the optionee is a company, syndicate or partnership, the names of all persons having more than five per cent interest therein, and the name and address of the person for or on whose behalf the option agreement or underwriting agreement has been entered into; 1947, c. 98, s. 43 (1), cl. (n); 1950, c. 79, s. 21 (2).

- (o) the details of future development and exploration plans of the management showing how it is proposed to expend the proceeds from current sales of securities;
- (p) where a company has not been incorporated for more than one year prior to the date of the statement, the amount or estimated amount of preliminary expenses showing administrative and development expenses separately, including the amount already expended and the estimated future expenditures in each case;
- (q) the amount and general description of any indebtedness to be created or assumed, which is not shown in a balance sheet filed with the Commission, and also particulars of the security, if any, given or to be given for such indebtedness;
- (r) particulars as follows:
 - (i) the principal business in which each director or officer has been engaged during the past three years and giving the length of time, position held and name of company or firm,
 - (ii) the nature and extent of the interest, direct or indirect, which any director or officer of the company, whether personally or as a partner in a firm, has ever had in any property acquired or to be acquired by the company, and
 - (iii) the aggregate remuneration paid by the company during the last financial year, and estimated to be paid or payable during the current financial year to directors and, separately stated, to officers;
- (s) the particulars of dividends, if any, paid during the last five years;
- (t) the names and addresses of the persons who, by reason of beneficial ownership of securities of the company or any agreement in writing, are in a position or are entitled to elect or cause to be elected a majority of the directors of the company;
- (u) any other material facts not disclosed in the foregoing;
- (v) a certification to be signed by the directors and promoters of the company in the following form:
The foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities

referred to above as required by section 38 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required; and

- (w) a certification to be signed by the underwriters and optionees in the following form: *To the best of my knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 38 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required. In respect of matters which are not within my knowledge I have relied upon the accuracy and adequacy of the foregoing.* 1947, c. 98, s. 43 (1), cls. (o-w).

Report on
mining
companies.

(2) A full and up-to-date report on the property of the mining company and the development thereof made by a person who in the opinion of the Commission is a qualified mining engineer, geologist or prospector, certified by such person stating,

- (a) the address and occupation of such person;
- (b) the qualifications of such person;
- (c) any interest which such person may have either directly or indirectly or which he may expect to receive either directly or indirectly in the property or securities;
- (d) whether or not the report is based on personal examination;
- (e) the date of any such examination; and
- (f) where not personally examined the source of information contained in the report,

shall accompany the prospectus required under subsection 1.

Commission
to be notified
of primary
distribution
to the public.

(3) No person or company shall engage in the primary distribution to the public of such a security as mentioned in subsection 1 until such person or company has notified the Commission in writing of his or its intention to engage in such primary distribution to the public.

Signing
by agent;
non-avail-
ability of
director.

(4) Any director, promoter, underwriter or optionee may sign a prospectus required under subsection 1 by his agent thereunto in writing lawfully authorized and where the Commission is satisfied upon evidence presented to it that any director is for adequate cause not available to sign any such

prospectus the Commission may dispense with the requirement for his signature.

(5) Every underwriter and optionee shall be entitled to rely upon the accuracy and adequacy of the disclosure made in any prospectus filed under subsection 1 except as regards any matters that are within the knowledge of the underwriter or optionee.

Responsibility of underwriter; optionee.

(6) Financial statements of a mining company in a form acceptable to the Commission, or if the company has any subsidiaries and unless the Commission otherwise directs, consolidated financial statements of the company and all its subsidiaries in a form acceptable to the Commission, as at the end of the last completed financial year of the company or as at a date not more than 120 days prior to the date of the prospectus under subsection 1, whichever is the later date, or as at such other date as the Commission may approve, shall accompany the prospectus required under subsection 1 containing,

Balance sheet and report by auditors.

- (a) a balance sheet on which the shares of capital stock, issued in payment of properties, claims or leases and the values at which such shares were issued shall be shown separately from the shares issued for cash or other consideration and supported by analyses of deferred charges where such deferred charges are significant, approved by two directors of the company and accompanied by a report of the auditors of the company, who shall be persons acceptable to the Commission, containing a reasonably comprehensive statement as to the examination made and stating whether, in their opinion, the balance sheet is properly drawn up so as to exhibit a true and correct view of the state of the affairs of the company or of the company and its subsidiaries, as the case may be, and as shown by the books of the company or of the company and such of its subsidiaries as are consolidated in the balance sheet; and
- (b) if profits have been earned or losses sustained, a statement with respect to net profits and the nature and source thereof, or net losses, as the case may be, in respect of the last three completed financial years, year by year, and any part of a subsequent financial year which is included in the balance sheet, and for such additional periods, but not exceeding seven years, as the Commission may require, where, in the opinion of the Commission, such further disclosure is desirable, or, if the company has been carrying on business for less than three years, then for such time

as the company has been carrying on business, accompanied by a report of the auditors of the company stating whether, in their opinion, such statement fairly represents the earnings for the periods.

Idem.

(7) In the case of a mining company which has been carrying on business for less than three years but which, prior to the date of the prospectus, acquired control of a business, either directly or by ownership of shares or otherwise, which has been carried on for a period longer than the business of the company, the requirements of clause *b* of subsection 6 shall apply as if the company had been carrying on business for the same period as the business of which it has acquired control.

Idem.

(8) If the proceeds or any part of the proceeds of the securities offered in the prospectus are or is to be applied directly or indirectly in the purchase of a business, the requirements of clause *b* of subsection 6 shall apply to the net profits or net losses, as the case may be, of both the company and the business.

Corrections.

(9) Where a change occurs during the period of primary distribution to the public in any material fact contained in any prospectus, financial statement or report accepted for filing under this section, which is of such a nature as to render such prospectus, financial statement or report misleading, an amended prospectus, financial statement or report shall be filed within 20 days from the date the change occurs but, subject to any direction of the Commission, the amended prospectus shall be required to be signed only by the signatories to the original prospectus and where any change in directors, promoters, underwriters or optionees has occurred since the filing of the original prospectus the decision of the Commission as to who shall be required to sign the amended prospectus or as to any like matter shall be final.

New prospectus, report and statements required after expiration of 12 months.

(10) Where primary distribution to the public of a security mentioned in subsection 1 is still in progress 12 months from the date of the last prospectus accepted for filing under subsection 1, a new prospectus as required under subsection 1 together with the report required under subsection 2 and the financial statements required under subsection 6 shall be filed with the Commission within 20 days from the expiration of such twelve-month period. 1947, c. 98, s. 43 (2-10).

PART VIII

TRADING IN THE SECURITIES OF AN INDUSTRIAL COMPANY

Trades in a security issued by an industrial company on primary distribution to the public.

39—(1) No person or company shall trade in any security issued by an industrial company either on his or its own account or on behalf of any other person or company where

such trade would be in the course of a primary distribution to the public of such security until there has been filed with the Commission a prospectus, and a receipt therefor obtained from the registrar, which prospectus shall be dated and signed by every person who is, at the time of filing, a director or promoter of the industrial company issuing the security or an underwriter or optionee of such security, and which prospectus shall contain a full, true and plain disclosure relating to the security issued and shall set forth,

- (a) the full name of the company and the address of the head office;
- (b) the laws under which the company was incorporated and stating whether incorporated by letters patent or otherwise and the date thereof, and if supplementary letters patent or a similar authority for variation of the letters patent or otherwise has been issued so stating with the date thereof;
- (c) the general nature of the business actually transacted or to be transacted;
- (d) the officers and directors giving in each case the name in full, present occupation and home address in full;
- (e) the name and address of the auditors;
- (f) the name and address of every registry and transfer agency;
- (g) the particulars of the share capital authorized, issued and paid up, the number and classes of shares and the par value thereof, or if without par value so stating;
- (h) where shares are offered, a description of respective voting rights, preferences, conversion and exchange rights, rights to dividends, profits or capital of each class of shares, including redemption rights, and rights on liquidation or distribution of capital assets, provided that it shall not be necessary to set out such description in respect of any class of shares which will be wholly redeemed or cancelled prior to, contemporaneously with or out of the proceeds of the issue of the shares offered nor any provisions relating to any shares which will have ceased to be effective prior to or contemporaneously with the issue of the shares offered;
- (i) the particulars in respect of any bonds, or debentures outstanding or proposed to be issued, and of any other securities issued or proposed to be issued,

which if issued will rank ahead of or *pari passu* with the securities offered;

- (j) the amount and general description of any substantial indebtedness to be created or assumed, which is not shown in the balance sheet filed with the Commission and also particulars of the security, if any, given or to be given for such indebtedness;
- (k) the particulars of the securities, if any, covered by options outstanding or proposed to be given by the company and the price or prices at which and the date or dates by which the options must be exercised, showing the name of the original grantee of the option and where the original grantee is a company, syndicate or partnership, the names of all persons having more than a five per cent interest therein, provided that where options are evidenced by instruments in bearer or transferable form capable of being freely bought and sold, then to the extent that the options have been or are to be made available to a class of holders of securities of the company, or have been or are to be offered in the course of a primary distribution to the public it shall not be necessary to disclose the names of the grantees except where the grantee is an underwriter;
- (l) the number of securities of each class, which in the case of obligations shall bear an appropriate and correct descriptive title, offered and the issue price and the terms thereof and in the case of a second or subsequent offer of securities the amount offered for subscription on each previous offer within the two preceding years and the amount actually issued and the amount paid up thereon, specifying the amounts received in cash or other consideration respectively and the commission, if any, paid or payable;
- (m) the estimated net proceeds to be derived from the securities offered on the basis of such securities being fully taken up and paid for;
- (n) the specific purposes in detail and the approximate amounts to be devoted to such purposes, so far as determinable, for which the securities offered are to supply funds and if the funds are to be raised in part from other sources the amount thereof and the sources thereof shall be stated, and particulars of any provision made for the holding in trust of the proceeds of the issue of the securities offered pending or subject to the fulfilment of any conditions;

- (o) where shares are offered by the company or an underwriter, the minimum amount, if any, which in the opinion of the directors must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sum required to be provided for the following matters:
- (i) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue,
 - (ii) any preliminary expenses payable by the company,
 - (iii) any commission payable by the company to any person in consideration of his agreeing to subscribe for or procuring or agreeing to procure subscriptions for any shares in the company,
 - (iv) the repayment of any moneys borrowed by the company in respect of the foregoing matters, and
 - (v) the repayment of bank loans, if any;
- (p) the particulars showing the date of and the parties to the agreement, if any, with an underwriter in respect of the securities offered and the remuneration of or price payable by the underwriter for the securities offered;
- (q) any provisions of the by-laws as to the remuneration of the directors;
- (r) the aggregate remuneration paid by the company during its last financial year, if completed at least three months prior to the offer, and estimated to be paid or payable during the current financial year or, if such remuneration is not capable of approximate estimation then the basis of determining it, to directors of the company and, separately stated, to officers of the company who individually have received or may be entitled to receive remuneration in excess of \$10,000 per annum;
- (s) the amount, if any, paid within the two preceding years or payable as a commission by the company for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares in or obligations of the company, or the rate of any such commission;

- (*t*) in the case of a company which has not been carrying on business for more than one year the amount or estimated amount of the preliminary expenses;
- (*u*) the particulars of any property purchased or acquired by the company, or proposed to be purchased or acquired, the purchase price of which is to be defrayed in whole or in part out of the proceeds of the issue or has been paid within the last two preceding years or is to be paid in whole or in part in securities of the company, or the purchase or acquisition of which has not been completed at the date of the statement and the nature of the title or interest therein acquired or to be acquired by the company, provided that this clause shall not apply to transactions entered into in the ordinary course of operations or on the general credit of the company;
- (*v*) the names and addresses of the vendors of any property under clause *u* and the amount, specifying separately the amount, if any, for goodwill, paid or payable in cash or securities of the company to the vendors for the property and where there is more than one separate vendor or the company is a sub-purchaser, the amount so payable to each vendor, provided that where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors, and provided further that where the property consists of securities of any other company purchased or acquired or proposed to be purchased or acquired by the company on substantially similar terms from more than 25 separate vendors it shall be sufficient to state the nature and terms of the transaction with particulars of the name and address of each person who is the vendor of securities aggregating more than 10 per cent of the total amount of the securities so purchased or acquired or proposed to be purchased or acquired;
- (*w*) the number and amount of securities which, within the two preceding years, have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash and in the latter case the extent to which they are so paid up, and in either case the consideration for which those securities have been issued or are proposed or intended to be issued;
- (*x*) where obligations are offered, particulars of the security, if any, which has been or will be created for such obligations, specifying the property, if any, comprised or to be comprised in the security and the

nature of the title to the property and, if more than 25 per cent in value of the property consists or is to consist of shares or obligations, particulars of the rights, if any, of the company to substitute other shares or obligations;

- (y) the particulars of any services rendered or to be rendered to the company which are to be paid for by the company wholly or partly out of the proceeds of the securities offered or have been within the last two preceding years or are to be paid for by securities of the company exclusive of commissions to be disclosed under clause *o* and amount included under clause *s* and amount included under clause *w*;
- (z) the amount paid within the two preceding years or intended to be paid to any promoter with his name and address and the consideration for such payment;
- (za) the dates of and the parties to and the general nature of every material contract entered into within the two preceding years, and a reasonable time and place at which any such material contract or a copy thereof may be inspected, but this requirement shall not apply to a contract entered into in the ordinary course of business carried on or intended to be carried on by the company;
- (zb) full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in any property acquired by the company within the preceding two years or proposed to be acquired by the company, or, where the interest of such director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or securities or otherwise by any person either to induce him to become, or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company, but this clause shall not apply in the case of a statement issued more than one year after the date at which the company commenced business, except as to the particulars relating to property proposed to be acquired by the company;
- (zc) in the case of a company which has been carrying on business for less than three years, the length of time during which the business of the company has been carried on, and, if the company has acquired or

proposes to acquire, either by direct acquisition or indirectly by ownership of shares or otherwise, a business which has been carried on for less than three years, also the length of time during which such business has been carried on;

- (zd) where shares are offered, the names and addresses of the persons, if known, who, by reason of beneficial ownership of securities of the company or any agreement in writing, are in a position to, or are entitled to, elect or cause to be elected a majority of the directors of the company;
- (ze) where any securities of the company of the same class as those offered are held in escrow, particulars of the number and description thereof, the name of the depositary, the date on which and the conditions, if any, governing the release of such securities from escrow;
- (zf) where shares are offered, particulars of dividends, if any, paid during the five years preceding the date of the statement;
- (zg) any other material facts not disclosed in the foregoing;
- (zh) a certification to be signed by the directors and promoters of the company in the following form: *The foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 39 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required;* and
- (zi) a certification to be signed by the underwriters and optionees in the following form: *To the best of my knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 39 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required. In respect of matters which are not within my knowledge I have relied upon the accuracy and adequacy of the foregoing.*

Commission
to be notified
of primary
distribution
to the public.

(2) No person or company shall engage in the primary distribution to the public of such a security as mentioned in subsection 1 until such person or company has notified the Commission in writing of his or its intention to engage in such primary distribution to the public.

(3) Any director, promoter, underwriter or optionee may sign a prospectus required under subsection 1 by his agent thereunto in writing lawfully authorized and where the Commission is satisfied upon evidence presented to it that any director is for adequate cause not available to sign any such prospectus the Commission may dispense with the requirement for his signature.

Signing by agent; non-availability of director.

(4) Every underwriter and optionee shall be entitled to rely upon the accuracy and adequacy of the disclosure made in any prospectus filed under subsection 1 except as regards any matters that are within the knowledge of the underwriter or optionee.

Responsibility of underwriter; optionee.

(5) Financial statements of an industrial company in a form acceptable to the Commission, or if the company has any subsidiaries and unless the Commission otherwise directs, consolidated financial statements of the company and all its subsidiaries in a form acceptable to the Commission, as at the end of the last completed financial year of the company or as at a date not more than 120 days prior to the date of the prospectus under subsection 1, whichever is the later date, or as at such other date as the Commission may approve, shall accompany the prospectus required under subsection 1 containing,

Balance sheet and report by auditors.

- (a) a balance sheet approved by two directors of the company and accompanied by a report of the auditors of the company, who shall be persons acceptable to the Commission, containing a reasonably comprehensive statement as to the examination made and stating whether, in their opinion, the balance sheet is properly drawn up so as to exhibit a true and correct view of the state of the affairs of the company or of the company and its subsidiaries, as the case may be, and as shown by the books of the company or of the company and such of its subsidiaries as are consolidated in the balance sheet; and
- (b) a statement with respect to net profits and the nature and source thereof, or net losses, as the case may be, in respect of the last three completed financial years, year by year, and any part of a subsequent financial year which is included in the balance sheet, and for such additional periods, but not exceeding seven years, as the Commission may require, where, in the opinion of the Commission, such further disclosure is desirable, or, if the company has been carrying on business for less than three years, then for such time as the company has been carrying on business, accompanied by a report of the auditors of the com-

pany stating whether, in their opinion, such statement fairly presents the earnings for the periods.

Idem.

(6) In the case of an industrial company which has been carrying on business for less than three years but which, prior to the date of the prospectus, acquired control of a business, either directly or by ownership of shares or otherwise, which has been carried on for a period longer than the business of the company, the requirements of clause *b* of subsection 5 shall apply as if the company had been carrying on business for the same period as the business of which it has acquired control.

Idem.

(7) If the proceeds or any part of the proceeds of the securities offered in the prospectus are or is to be applied directly or indirectly in the purchase of a business, the requirements of clause *b* of subsection 5 shall apply to the net profits or net losses, as the case may be, of both the company and the business.

Pro forma
balance
sheet.

(8) A *pro forma* balance sheet of an industrial company in a form acceptable to the Commission, or if the company has any subsidiaries and unless the Commission otherwise directs, a *pro forma* consolidated balance sheet of the company and all its subsidiaries in a form acceptable to the Commission and approved by two directors of the company and reported upon by the auditors of the company, as at the same date as the financial statements required under subsection 5 or, if no financial statements are required under subsection 5, as at a date acceptable to the Commission, and which *pro forma* balance sheet purports to give effect to the sale, issue or redemption of securities issued or to be issued by the company, may, if the Commission so requires or permits, accompany the prospectus required under subsection 1 or the financial statements required under subsection 5, as the case may be, provided that the preface to the *pro forma* balance sheet gives a plain and full disclosure of the assumptions upon which the *pro forma* balance sheet is based.

Corrections.

(9) Where a change occurs during the period of primary distribution to the public in any material fact contained in any prospectus, financial statement or report accepted for filing under this section, which is of such a nature as to render such prospectus, financial statement or report misleading, an amended prospectus, financial statement or report shall be filed within 20 days from the date the change occurs but, subject to any direction of the Commission, the amended prospectus shall be required to be signed only by the signatories to the original prospectus and where any change in directors, promoters, underwriters or optionees has occurred since the filing of the original prospectus the decision of the

Commission as to who shall be required to sign the amended prospectus or as to any like matter shall be final.

(10) Where primary distribution to the public of a security mentioned in subsection 1 is still in progress 12 months from the date of the last prospectus accepted for filing under subsection 1, a new prospectus as required under subsection 1 together with the financial statements required under subsection 5 shall be filed with the Commission within 20 days from the expiration of such twelve-month period. 1947, c. 98, s. 44.

New prospectus and statements required after expiration of 12 months.

PART IX

TRADING IN THE SECURITIES OF AN INVESTMENT COMPANY

40.—(1) No person or company shall trade in any security issued by an investment company either on his or its own account or on behalf of any other person or company where such trade would be in the course of a primary distribution to the public of such security until there has been filed with the Commission a prospectus, and a receipt therefor obtained from the registrar, which prospectus shall be dated and signed by every person who is, at the time of filing, a director or promoter of the investment company issuing the security or an underwriter or optionee of such security, and which prospectus shall contain a full, true and plain disclosure relating to the security issued and shall set forth,

Trades in a security issued by an investment company on primary distribution to the public.

- (a) the full name of the company and the address of the head office;
- (b) the laws under which the company was incorporated and stating whether incorporated by letters patent or otherwise and the date thereof, and if supplementary letters patent or a similar authority for variation of the letters patent or otherwise has been issued so stating with the date thereof;
- (c) the general nature of the business actually transacted or to be transacted giving full particulars of investment powers and duties;
- (d) the officers and directors giving in each case the name in full, present occupation and home address in full;
- (e) the names and home addresses in full of the persons constituting any investment advisory committee or similar body together with a concise statement of powers and duties, and giving the business experience of such persons for the preceding five years, and where such persons are officers or directors of other companies, so stating, giving the names of such companies;

- (f) the name and address of the auditors;
- (g) the name and address of every registry and transfer agency;
- (h) the particulars of the share capital authorized, issued and paid up, the number and classes of shares and the par value thereof, or if without par value so stating;
- (i) where shares are offered, a description of respective voting rights, preferences, conversion and exchange rights, rights to dividends, profits or capital of each class of shares, including redemption rights, and rights on liquidation or distribution of capital assets, provided that it shall not be necessary to set out such description in respect of any class of shares which will be wholly redeemed or cancelled prior to, contemporaneously with or out of the proceeds of the issue of the shares offered nor any provisions relating to any shares which will have ceased to be effective prior to or contemporaneously with the issue of the shares offered;
- (j) the particulars in respect of any bonds, or debentures outstanding or proposed to be issued, and of any other securities issued or proposed to be issued, which if issued will rank ahead of or *pari passu* with the securities offered;
- (k) the names and addresses in full of any trustees and the particulars of any trustee agreements where assets are held to protect the liability to the public in respect of securities sold to the public and if not applicable so stating;
- (l) the amount and general description of any substantial indebtedness to be created or assumed, which is not shown in the balance sheet filed with the Commission and also particulars of the security, if any, given or to be given for such indebtedness;
- (m) the particulars of the securities, if any, covered by options outstanding or proposed to be given by the company and the price or prices at which and the date or dates by which the options must be exercised, showing the name of the original grantee of the option and where the original grantee is a company, syndicate or partnership, the names of all persons having more than a five per cent interest therein, provided that where options are evidenced by instruments in bearer or transferable form capable of being

freely bought and sold, then to the extent that the options have been or are to be made available to a class of holders of securities of the company, or have been or are to be offered in the course of a primary distribution to the public it shall not be necessary to disclose the names of the grantees except where the grantee is an underwriter;

- (n) a brief description of the method by which the securities offered will be sold to the public;
- (o) the number of securities of each class, which in the case of obligations shall bear an appropriate and correct descriptive title, offered and the issue price and the terms thereof and in the case of a second or subsequent offer of securities the amount offered for subscription on each previous offer within the two preceding years and the amount actually issued and the amount paid up thereon, specifying the amounts received in cash or other consideration respectively and the commission, if any, paid or payable;
- (p) the estimated net proceeds to be derived from the securities offered on the basis of such securities being fully taken up and paid for;
- (q) the specific purposes in detail and the approximate amounts to be devoted to such purposes, so far as determinable, for which the securities offered are to supply funds and if the funds are to be raised in part from other sources the amount thereof and the sources thereof shall be stated, and particulars of any provision made for the holding in trust of the proceeds of the issue of the securities offered pending or subject to the fulfilment of any conditions;
- (r) where shares are offered by the company or an underwriter, the minimum amount, if any, which in the opinion of the directors must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sum required to be provided for the following matters:
 - (i) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue,
 - (ii) any preliminary expenses payable by the company,
 - (iii) any commission payable by the company to any person in consideration of his agreeing to

subscribe for or procuring or agreeing to procure subscriptions for any shares in the company,

- (iv) the repayment of any moneys borrowed by the company in respect of the foregoing matters, and,
- (v) the repayment of bank loans, if any;
- (s) the particulars showing the date of and the parties to the agreement, if any, with an underwriter in respect of the securities offered and the remuneration of or price payable by the underwriter for the securities offered;
- (t) any provisions of the by-laws as to the remuneration of the directors and of the persons constituting the investment advisory committee or similar body, if any;
- (u) the aggregate remuneration paid by the company during its last financial year, if completed at least three months prior to the offer, and estimated to be paid or payable during the current financial year or, if such remuneration is not capable of approximate estimation then the basis of determining it, to directors of the company and, separately stated, to officers of the company who individually have received or may be entitled to receive remuneration in excess of \$10,000 per annum;
- (v) the amount, if any, paid within the two preceding years or payable as a commission by the company for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any securities of the company, or the rate of any such commission;
- (w) in the case of a company which has not been carrying on business for more than one year the amount or estimated amount of the preliminary expenses;
- (x) the particulars of any property purchased or acquired by the company, or proposed to be purchased or acquired, the purchase price of which is to be defrayed in whole or in part out of the proceeds of the issue or has been paid within the last two preceding years or is to be paid in whole or in part in securities of the company, or the purchase or acquisition of which has not been completed at the date of the statement and the nature of the title or interest therein acquired or to be acquired by the company, provided that this clause shall not apply to transactions

entered into in the ordinary course of operations or on the general credit of the company;

- (y) the names and addresses of the vendors of any property under clause *x* and the amount, specifying separately the amount, if any, for goodwill, paid or payable in cash or securities of the company to the vendors for the property and where there is more than one separate vendor or the company is a sub-purchaser, the amount so payable to each vendor, provided that where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors, and provided further that where the property consists of securities of any other company purchased or acquired or proposed to be purchased or acquired by the company on substantially similar terms from more than 25 separate vendors it shall be sufficient to state the nature and terms of the transaction with particulars of the name and address of each person who is the vendor of securities aggregating more than 10 per cent of the total amount of the securities so purchased or acquired or proposed to be purchased or acquired;
- (z) the number and amount of securities which, within the two preceding years, have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash and in the latter case the extent to which they are so paid up, and in either case the consideration for which those securities have been issued or are proposed or intended to be issued;
- (za) where obligations are offered, particulars of the security, if any, which has been or will be created for such obligations, specifying the property, if any, comprised or to be comprised in the security and the nature of the title to the property and, if more than 25 per cent in value of the property consists or is to consist of shares or obligations, particulars of the rights, if any, of the company to substitute other shares or obligations;
- (zb) the particulars of any services rendered or to be rendered to the company which are to be paid for by the company wholly or partly out of the proceeds of the securities offered or have been within the last two preceding years or are to be paid for by securities of the company exclusive of commissions to be disclosed under clause *r* and amount included under clause *v* and amount included under clause *z*;

- (zc) the amount paid within the two preceding years or intended to be paid to any promoter with his name and address and the consideration for such payment;
- (zd) the dates of and the parties to and the general nature of every material contract entered into within the two preceding years, and a reasonable time and place at which any such material contract or a copy thereof may be inspected, but this requirement shall not apply to a contract entered into in the ordinary course of business carried on or intended to be carried on by the company;
- (ze) full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in any property acquired by the company within the preceding two years or proposed to be acquired by the company or, where the interest of such director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or securities or otherwise by any person either to induce him to become, or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company, but this clause shall not apply in the case of a statement issued more than one year after the date at which the company commenced business, except as to the particulars relating to property proposed to be acquired by the company;
- (zf) in the case of a company which has been carrying on business for less than three years, the length of time during which the business of the company has been carried on, and, if the company has acquired or proposes to acquire, either by direct acquisition or indirectly by ownership of shares or otherwise, a business which has been carried on for less than three years, also the length of time during which such business has been carried on;
- (zg) where shares are offered, the names and addresses of the persons, if known, who, by reason of beneficial ownership of securities of the company or any agreement in writing, are in a position to, or are entitled to, elect or cause to be elected a majority of the directors of the company;
- (zh) the particulars of dividends, if any, paid during the five years preceding the date of the statement;

- (zi) any other material facts not disclosed in the foregoing;
- (zj) a certification to be signed by the directors and promoters of the company in the following form: *The foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 40 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required*; and
- (zk) a certification to be signed by the underwriters and optionees in the following form: *To the best of my knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 40 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required. In respect of matters which are not within my knowledge I have relied upon the accuracy and adequacy of the foregoing.*

(2) No person or company shall engage in the primary distribution to the public of such a security as mentioned in subsection 1 until such person or company has notified the Commission in writing of his or its intention to engage in such primary distribution to the public.

Commission to be notified of primary distribution to the public.

(3) Any director, promoter, underwriter or optionee may sign a prospectus required under subsection 1 by his agent thereunto in writing lawfully authorized and where the Commission is satisfied upon evidence presented to it that any director is for adequate cause not available to sign any such prospectus the Commission may dispense with the requirement for his signature.

Signing by agent; non-availability of director.

(4) Every underwriter and optionee shall be entitled to rely upon the accuracy and adequacy of the disclosure made in any prospectus filed under subsection 1 except as regards any matters that are within the knowledge of the underwriter or optionee. 1947, c. 98, s. 45 (1-4).

Responsibility of underwriter, optionee.

(5) Financial statements of an investment company in a form acceptable to the Commission, or if the company has any subsidiaries and unless the Commission otherwise directs, consolidated financial statements of the company and all its subsidiaries in a form acceptable to the Commission, as at the end of the last completed financial year of the company or as at a date not more than 120 days prior to the date of the

Balance sheet, reports and statements.

prospectus under subsection 1, whichever is the later date, or as at such other date as the Commission may approve, shall accompany the prospectus required under subsection 1 containing,

- (a) a balance sheet approved by two directors of the company and accompanied by a report of the auditors of the company, who shall be persons acceptable to the Commission, containing a reasonably comprehensive statement as to the examination made and stating whether, in their opinion, the balance sheet is properly drawn up so as to exhibit a true and correct view of the state of the affairs of the company or of the company and its subsidiaries, as the case may be, and as shown by the books of the company or of the company and such of its subsidiaries as are consolidated in the balance sheet;
- (b) a statement with respect to the portfolio of investments of the company or the company and all its subsidiaries, as the case may be, as at the date of the balance sheet, which statement shall be drawn up so as to distinguish separately at least the following classes of investments and showing as to each class, the aggregate value at which such investments are carried on the books of the company or the company and all its subsidiaries, as the case may be, with the basis thereof and the aggregate market value, where market values are obtainable,
 - (i) direct and guaranteed securities of the Government of Canada,
 - (ii) direct and guaranteed securities of the government of any province of Canada,
 - (iii) securities of any municipal corporation in Canada,
 - (iv) securities of or guaranteed by any government in the Commonwealth of Nations or any colony or dependency thereof,
 - (v) securities of or guaranteed by the government of any foreign country or state forming a portion of any foreign country,
 - (vi) mortgages and agreements for sale, and
 - (vii) other securities, listing each issue separately, and showing for each issue, where applicable, the quantity held, principal amount, maturity date, interest or dividend rate, cost, the

valuation on the books with the basis thereof and the market value where the market value is obtainable,

provided that one group of investments not exceeding 10 per cent of the aggregate value at which all investments in the portfolio are carried on the books of the company or the company and all its subsidiaries, as the case may be, may be listed in one amount as miscellaneous securities, and the statement shall be reported upon by the auditors of the company, which auditors shall state whether, in their opinion, the statement fairly presents the information it purports to show;

- (c) a statement with respect to net profits and the nature and source thereof, or net losses, as the case may be, in respect of the last three completed financial years, year by year, and any part of a subsequent financial year which is included in the balance sheet, and for such additional periods, but not exceeding seven years, as the Commission may require, where, in the opinion of the Commission, such further disclosure is desirable, or, if the company has been carrying on business for less than three years, then for such time as the company has been carrying on business, accompanied by a report of the auditors of the company stating whether, in their opinion, the statement fairly presents the earnings for the periods;
- (d) statements of surplus and profit and loss of the company or of the company and all its subsidiaries, as the case may be, pertaining to the last completed financial year and any part of a financial year included in the balance sheet; and 1947, c. 98, s. 45 (5), cls. (a-d.)
- (e) in the case of an investment company, other than an issuer within the meaning of *The Investment Contracts Act*, which issues investment certificates, investment contracts, savings certificates, savings contracts or securities of a similar type, a report by the auditors of the company with respect to the adequacy of the recorded liabilities of the company to the holders of such securities. 1947, c. 98, s. 45 (5), cl. (e); 1948, c. 82, s. 8 (1). Rev. Stat., c. 187.

(6) In the case of an investment company which has been carrying on business for less than three years but which, prior to the date of the prospectus, acquired control of a business, either directly or by ownership of shares or otherwise, which

has been carried on for a period longer than the business of the company, the requirements of clause *c* of subsection 5 shall apply as if the company had been carrying on business for the same period as the business of which it has acquired control.

Idem.

(7) If the proceeds or any part of the proceeds of the securities offered in the prospectus are or is to be applied directly or indirectly in the purchase of a business, the requirements of clause *c* of subsection 5 shall apply to the net profits or net losses, as the case may be, of both the company and the business.

Corrections.

(8) Where a change occurs during the period of primary distribution to the public in any material fact contained in any prospectus, financial statement or report accepted for filing under this section, which is of such a nature as to render such prospectus, financial statement or report misleading, an amended prospectus, financial statement or report shall be filed within 20 days from the date the change occurs but, subject to any direction of the Commission, the amended prospectus shall be required to be signed only by the signatories to the original prospectus and where any change in directors, promoters, underwriters or optionees has occurred since the filing of the original prospectus the decision of the Commission as to who shall be required to sign the amended prospectus or as to any like matter shall be final.

New prospectus and statements required after expiration of 12 months.

(9) Where primary distribution to the public of a security mentioned in subsection 1 is still in progress 12 months from the date of the last prospectus accepted for filing under subsection 1, a new prospectus as required under subsection 1 together with the financial statements required under subsection 5 shall be filed with the Commission within 20 days from the expiration of such twelve-month period. 1947, c. 98, s. 45 (6-9).

PART X

GENERAL PROVISIONS RELATING TO MINING, INDUSTRIAL, AND INVESTMENT COMPANIES

Exemptions.

41. Sections 38, 39 and 40 shall not apply to trades mentioned in clause *c* or *f* of subsection 1 of section 19 nor to securities,

- (a) which are mentioned in subsection 2 of section 19;
- (b) which are listed and posted for trading on any recognized stock exchange where such securities are sold through such stock exchange;
- (c) which are traded or sold to the public except in the primary distribution thereof to the public;

- (d) from one person or company registered for trading in securities under this Act to another person or company registered for trading in securities under this Act where the purchasing person or company is acting as principal; or
- (e) which are exempted by the regulations. 1947, c. 98, s. 46; 1948, c. 82, s. 9.

42.—(1) Where doubt exists whether any trade proposed or intended to be made in a security would be in the primary distribution to the public of the security, the Commission may, upon the application of any of the parties thereto, determine whether the proposed or intended trade would be in the course of the primary distribution to the public of the security and rule accordingly, and such ruling shall be final and there shall be no appeal therefrom. Doubt as to nature of trade.

(2) Where doubt exists whether a primary distribution to the public of any security, Doubt as to primary distribution.

- (a) has been concluded; or
- (b) is currently in progress,

the Commission may determine the question and rule accordingly, and such ruling shall be final and there shall be no appeal therefrom. 1947, c. 98, s. 47.

43.—(1) Where a person or company proposing to make a primary distribution to the public of previously distributed securities of any company is unable to obtain from the company which is the issuer of such securities, information or material which is necessary for the purpose of complying with section 38, 39 or 40, as the case may be, the Commission may order the company which is the issuer of such securities to furnish to the person or company who or which proposes to make the distribution, such information and material as the Commission deems necessary for the purposes of the distribution upon such terms and subject to such conditions as it deems proper and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with this Act. Previously distributed securities, information re.

(2) Where a person or company proposing to make a primary distribution to the public of previously distributed securities of any company is unable to obtain any or all of the signatures to the prospectus as required under subsection 1 of section 38, subsection 1 of section 39 or subsection 1 of section 40, as the case may be, or otherwise to comply with section 38, Inability to obtain signatures.

39 or 40, as the case may be, the Commission may, upon being satisfied that all reasonable efforts have been made to comply with section 38, 39 or 40, as the case may be, and that no person is likely to be prejudicially affected by the failure to comply, make such order, waiving any of the provisions of section 38, 39 or 40, as it deems advisable, upon such terms and subject to such conditions as it deems proper. 1947, c. 98, s. 48.

Acceptance;
refusal of
prospectus,
statement or
report.

44. The Commission may in its discretion accept for filing any prospectus, financial statement or report or amended prospectus, financial statement or report submitted for filing under section 38, 39 or 40, as the case may be, and direct the registrar to issue a receipt therefor unless it appears to the Commission,

- (a) that the prospectus, or any financial statement or report which is required to accompany the prospectus,
 - (i) fails to comply in any substantial respect with any of the requirements of section 38, 39 or 40, as the case may be, or
 - (ii) contains any statement, promise or forecast which is misleading, false or deceptive, or
 - (iii) has the effect of concealing material facts; or
- (b) that an unconscionable consideration has been paid or given or is intended to be paid or given,
 - (i) for promotional purposes, or
 - (ii) for the acquisition of property; or
- (c) that the proceeds from the sale of the securities which are to be paid into the treasury of the company, together with other resources of the company, are insufficient to accomplish the objects indicated in the prospectus; or
- (d) that such escrow or pooling agreement as the Commission deems necessary or advisable with respect to securities issued for a consideration other than cash has not been entered into. 1947, c. 98, s. 49.

Notice of
refusal.

45. Where the Commission decides not to accept for filing a prospectus submitted for filing under section 38, 39 or 40, as the case may be, it shall forthwith cause notice of such decision to be served upon the person who or company which has submitted the prospectus for filing. 1947, c. 98, s. 50.

46.—(1) Where it appears to the Commission subsequent to the filing of a prospectus or an amended prospectus under section 38, 39 or 40, as the case may be, and the issue of a receipt therefor, that any of the circumstances set out in section 44 exist, it may order that all trading in the primary distribution to the public of the securities to which the prospectus relates, shall cease. Order to cease trading.

(2) A notice of every order made under this section shall be served upon the person who or company which filed the prospectus and upon every person or company registered for trading in securities under this Act who or which has notified the Commission of his or its intention to engage in the primary distribution to the public of the securities, and forthwith upon the receipt of the notice, Notice of order.

- (a) no further trades shall be made in the primary distribution to the public of the securities named in the order by any person or company; and
- (b) the prospectus or amended prospectus in question shall, for the purposes of this Act, be deemed not to be filed with the Commission and any receipt received therefor shall be deemed to be revoked.

(3) Where a notice is sent by prepaid post under subsection 2, it shall be presumed to be received by the person or company to whom it is addressed in the ordinary course of post. 1947, c. 98, s. 51. Presumption of receipt.

47.—(1) Every person or company registered for trading in securities under this Act who receives from any person an order or subscription for a security to which section 38, 39 or 40 is applicable after having solicited such person to purchase such security shall, before entering into a contract for the sale of such security and before accepting payment or receiving any security under any such contract or in anticipation of making such a contract, deliver or cause to be delivered to such person a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with, Delivery of prospectus to purchaser.

- (a) a copy of the last financial statements and reports accepted for filing by the Commission, where financial statements and reports are required to be filed; and
- (b) a fair and accurate summary of the report on the property of the company and the development thereof, with any corrections, where the report is required to be filed.

Prospectus
to be
delivered to
purchaser of
securities.

(2) Every person or company registered for trading in securities under this Act who receives from any person an order or subscription for a security to which section 38, 39, or 40 is applicable and who has not solicited such person to purchase such security shall, at any time not later than the delivery of the written confirmation of the sale of such security, deliver or cause to be delivered to such person a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with,

- (a) a copy of the last financial statements and reports accepted for filing by the Commission, where financial statements and reports are required to be filed; and
- (b) a fair and accurate summary of the report on the property of the company and the development thereof, with any corrections, where the report is required to be filed.

When section
not
applicable.

(3) This section shall not be applicable to,

- (a) a trade through a person or company registered for trading in securities under this Act who is not engaged in the primary distribution to the public of the security but is acting as the agent of the purchaser; or
- (b) a sale by a person who is not engaged in the primary distribution to the public of the security. 1947, c.98, s. 52.

Rescission of
contract.

48.—(1) A person who has entered into a contract to which section 47 applies shall be entitled to rescission of the contract where,

- (a) section 47 has not been complied with;
- (b) written notice of exercising the right of rescission is served on the person or company registered for trading in securities under this Act within,
 - (i) seven days of the date of the delivery of a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with a copy of the financial statements and reports and summary of report, where required, provided that the date of such delivery is within sixty days of the date of the delivery of the written confirmation of the sale of the security, or

- (ii) sixty days of the date of the delivery of the written confirmation of the sale of the security provided that at the time such notice of exercising the right of rescission is served, a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with a copy of the financial statements and reports and summary of the report, where required, have not been delivered; and

(c) the purchaser is still the owner of the security.

(2) In an action for rescission to which this section applies, ^{Onus.} the onus of proving compliance with section 47 shall be upon the person or company registered for trading in securities under this Act.

(3) No action shall be commenced under this section after ^{Period of limitation.} the expiration of a period of three months from the date of the service of notice under subsection 1. 1947, c. 98, s. 53.

PART XI

PROVISIONS RELATING TO TRADING IN SECURITIES GENERALLY

49. No term in a contract between a person or company registered for trading in securities under this Act who acts as an agent, and a customer relating to any right of such person or company registered for trading in securities under this Act in respect of any security, shall be binding upon the customer where the Commission has declared such right to be unreasonable by notice in writing sent by registered post to such person or company registered for trading in securities under this Act and to every stock exchange operating in Ontario, the Central District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario. 1947, c. 98, s. 54. ^{Term of contract declared unreasonable.}

50. Every broker who has acted as agent for a customer in the purchase or sale of a security upon a stock exchange shall promptly send or deliver to the customer a written confirmation of the transaction setting forth, ^{Confirmation to customers.}

- (a) the quantity and description of the security;
- (b) the consideration;
- (c) the name of the person or company from or to through whom the security was bought or sold;
- (d) the day, and the name of the stock exchange, upon which the transaction took place; and

- (e) the commission charged in respect of the purchase or sale. 1947, c. 98, s. 55.

Confirmation
of unlisted
trades.

51. Every person or company registered for trading in securities under this Act who has acted either as principal or agent in connection with any trade in a security other than a trade upon a stock exchange shall promptly send to each customer a written confirmation of the transaction setting forth,

- (a) the quantity and description of the security;
- (b) the consideration;
- (c) whether or not the person or company registered for trading in securities under this Act is acting as principal or agent;
- (d) the commission, if any, charged in respect of the purchase or sale;
- (e) the name of the salesman, if any, in the transaction; and
- (f) the day upon which the transaction took place. 1947, c. 98, s. 56.

Calling at or
telephoning
residence.

52.—(1) No person shall,

- (a) call at any residence; or
- (b) telephone from within Ontario to any residence within or outside of Ontario,

for the purpose of trading in any security with any member of the public.

Exceptions.

(2) Subsection 1 shall not apply,

- (a) where the person calls at or telephones to the residence,
 - (i) of a close personal friend, a business associate or a customer with whom or on whose behalf the person calling or telephoning has been in the habit of trading in securities, or
 - (ii) of a person who has requested in writing that information respecting a specific security be furnished him by the person so calling or telephoning, but in such case the person so calling or telephoning shall call or telephone only in reference to that security; or
- (b) to a trade or trades in any securities in respect of which registration is not required under this Act.

(3) In this section "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto. 1947, c. 98, s. 57. Interpretation.

53.—(1) No person or company, with the intention of effecting a trade in a security other than a security which carries a right of redemption or repurchase by the person or company issuing such security, shall make any representation, written or oral, that he or it or any person or company, Prohibition of representations.

(a) will resell or repurchase; or

(b) will refund all or any of the purchase price of,

any such security in which he or it is trading. 1947, c. 98, s. 58 (1); 1948, c. 82, s. 10.

(2) No person or company, with the intention of effecting a trade in a security, shall give any undertaking, written or oral, relating to the future value or price of such security. Promises.

(3) No person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Commission, make any representation, written or oral, that such security will be listed on any stock exchange or that application has or will be made to list such security upon any stock exchange. 1947, c. 98, s. 58 (2, 3). Representation that security will be listed on stock exchange.

54.—(1) Where a person or company registered for trading in securities under this Act, with the intention of effecting a trade in a security with any person other than a person registered for trading in securities under this Act, issues, publishes or sends a circular, pamphlet, letter, telegram or advertisement, and proposes to act in such trade as a principal, such person or company shall so state in the circular, pamphlet, letter, telegram or advertisement or otherwise in writing before entering into a contract for the sale or purchase of any such security and before accepting payment or receiving any security or other consideration under or in anticipation of any such contract. Notice where acting as principal.

(2) Where a person or company registered for trading in securities under this Act, with the intention of effecting a trade in a security with any person other than a person registered for trading in securities under this Act, makes an oral offer or invitation for an offer to any person and effects such trade as a principal, such person or company shall state in a written confirmation of the contract that he or it has acted as principal. Written confirmation.

(3) A statement made in compliance with this section that a person or company registered for trading in securities under Where acting as agent.

this Act proposes to act or has acted as principal in connection with a trade in a security shall not prevent such person or company from acting as agent in connection with a trade in such security.

When section not applicable.

(4) This section shall not apply to,

- (a) trades mentioned in subsection 1 of section 19; or
- (b) securities described in subsection 2 of section 19. 1948, c. 82, s. 11.

Rescission of contract.

55.—(1) A person who has entered into a contract to which subsection 1 of section 54 applies shall be entitled to rescission of the contract where subsection 1 of section 54 has not been complied with and written notice of exercising the right of rescission is served on the person or company registered for trading in securities under this Act within 60 days of the date of the delivery of the security to or by such person, as the case may be, and in the case of a purchase by such person, he is still the owner of the security purchased.

Idem.

(2) A person who has entered into a contract to which subsection 2 of section 54 applies shall be entitled to rescission of the contract where subsection 2 of section 54 has not been complied with and written notice of exercising the right of rescission is served on the person or company registered for trading in securities under this Act within seven days of the date of the delivery of the written confirmation of the contract and in the case of purchase by such person, he is still the owner of the security purchased.

Onus.

(3) In an action for rescission to which this section applies, the onus of proving compliance with section 54 shall be upon the person or company registered for trading in securities under this Act.

Period of limitation.

(4) No action shall be commenced under this section after the expiration of a period of three months from the date of the service of notice under subsection 1 or 2. 1948, c. 82, s. 12.

Investment counsel's financial interest.

56. Every registered investment counsel shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent by him, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest which he may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof including,

- (a) any ownership, beneficial or otherwise, which he may have in such securities or in any securities issued by the same company;
- (b) any option which he may have in respect of such securities, and the terms thereof;
- (c) any commission or other remuneration which he has received or may expect to receive from any person or company registered for trading in securities under this Act or otherwise in connection with any trade in such securities;
- (d) any financial arrangement which he may have with any person or company registered for trading in securities under this Act relating to such securities; and
- (e) any financial arrangement which he may have with any underwriter or other person who has any interest in the securities. 1947, c. 98, s. 61.

57. Every partnership or company registered for trading in securities under this Act shall publish the name of every person having an interest, either directly or indirectly, to the extent of not less than 10 per cent in the capital of the partnership or company, as the case may be, on all letterheads, circulars and other stationery upon which the name of the partnership or company appears and which contain any offer or solicitation respecting a trade in securities. 1947, c. 98, s. 62. Publication of names.

58. No person or company registered under this Act shall use the name of another person or company registered under this Act on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless he or it is a partner, officer or agent of or is authorized so to do in writing by the other person or company registered under this Act. 1947, c. 98, s. 63; 1948, c. 82, s. 13. Use of name of another registered person or company.

59. No person or company shall hold himself or itself out as being registered under this Act by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he or it is so registered. 1947, c. 98, s. 64. Registration not to be advertised.

60. No person or company who is not registered under this Act shall, either directly or indirectly, hold himself or itself out as being so registered. 1947, c. 98, s. 65. Holding out by unregistered persons.

61. No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any person Advertising Commission's approval.

or company registered under this Act or upon the merits of any security. 1947, c. 98, s. 66.

Margin
contracts.

62.—(1) Where a person, or a member or employee of a partnership, or a director, officer or employee of a company, after he or the partnership or company has contracted as a person or company registered for trading in securities under this Act with any customer to buy and carry upon margin any securities of any person or company either in Canada or elsewhere, and while such contract continues, sells or causes to be sold securities of the same person or company for any account in which,

- (a) he;
- (b) his firm or a partner thereof; or
- (c) the company or a director thereof,

has a direct or indirect interest, if the effect of such sale would, otherwise than unintentionally, be to reduce the amount of such securities in the hands of the person or company registered for trading in securities under this Act or under his or its control in the ordinary course of business below the amount of such securities which he or it should be carrying for all customers, any such contract with a customer shall at the option of the customer be void, and the customer may recover from the person or company registered for trading in securities under this Act, all moneys paid with interest thereon or securities deposited in respect thereof.

Exercise of
option.

(2) The customer may exercise such option by a registered letter to that effect addressed to the person or company registered for trading in securities under this Act, at his or its address for service in Ontario. 1947, c. 98, s. 67.

PART XII

OFFENCES AND PENALTIES

Penalties.

63.—(1) Every person, including any officer, director, official or employee of a company, who is knowingly responsible for,

- (a) any fictitious or pretended trade in any security;
- (b) any course of conduct or business which is calculated or put forward with intent to deceive the public or the purchaser or the vendor of any security as to the nature of any transaction or as to the value of such security;

- (c) the making of any material false statement in any application, information, statement, material or evidence submitted or given to the Commission, its representative, the registrar or any person appointed to make an investigation or audit under this Act, under this Act or the regulations;
- (d) the furnishing of false information in any report, statement, return, balance sheet or other document required to be filed or furnished under this Act or the regulations;
- (e) the commission of any act or failure to perform any act where such commission or failure constitutes a violation of any provision of this Act or the regulations; or
- (f) failure to observe or comply with any order, direction or other requirement made under this Act or the regulations,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$2,000 or to imprisonment for a term of not more than one year or both.

(2) Subsection 1 shall be deemed to apply, *mutatis mutandis*, to any company save that the money penalties may be increased in the discretion of the magistrate to a sum of not more than \$25,000. 1947, c. 98, ss. 68, 70. Companies.

64.—(1) No proceedings under section 63 shall be instituted except with the consent or under the direction of the Attorney-General. Consent before action.

(2) No proceedings under section 63 shall be commenced more than six months after the facts upon which the proceedings are based first came to the knowledge of the Commission. 1947, c. 98, s. 69. Time for commencement of action.

65. An information or complaint in respect of any contravention of this Act may be for one or more offences and no information, complaint, summons, warrant, conviction or other proceedings in any such prosecution shall be objectionable or insufficient by reason of the fact that it relates to two or more offences. 1950, c. 79, s. 21 (3), *part*. Information may be in respect of one or more offences.

PART XIII

GENERAL PROVISIONS

66. No person or company shall carry on business as a stock exchange without the consent in writing of the Commission. 1947, c. 98, s. 71. Stock exchanges.

Record.

67. Every stock exchange in Ontario shall keep a record showing the time at which each transaction on such exchange took place and shall supply to any customer of any member of such exchange, upon production of a written confirmation of any transaction with such member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the confirmation. 1947, c. 98, s. 72.

Liability of
directors,
promoters,
etc., for
untrue
statements in
prospectus.

68.—(1) Where a prospectus has been accepted for filing by the Commission under this Act, every purchaser of the securities to which the prospectus relates shall be deemed to have relied upon the representations made in the prospectus whether the purchaser has received the prospectus or not and, if any material false statement is contained in the prospectus, every person who is a director of the company issuing the securities at the time of the issue of the prospectus, and every person who, having authorized such naming of him, is named in the prospectus as a director of the company or as having agreed to become a director of the company either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, shall be liable to pay compensation to all persons who have purchased the securities for any loss or damage such persons may have sustained, unless it is proved,

- (a) that having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that the prospectus was issued without his authority or consent; or
- (b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was so issued; or
- (c) that after the issue of the prospectus and before a sale of the securities, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of such withdrawal and of the reason therefor; or
- (d) that with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable grounds to believe and did up to the time of the sale of the securities, believe that the statement was true; or
- (e) that with respect to every untrue statement purporting to be a statement by or contained in what pur-

ports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy or extract from the report or valuation, but the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid, if it is proved that he had no reasonable grounds to believe that the person making the statement, report or valuation was competent to make it; or

- (f) that with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document.

(2) In this section "prospectus" includes every statement and report and summary of report required to be filed with the prospectus under this Act. 1947, c. 98, s. 73. Interpretation.

69. Except with the consent of the Attorney-General no action whatever and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy shall lie or be instituted, No action, etc., against persons administering Act.

- (a) against any person whether in his public or private capacity, or against any company in respect of any act or omission in connection with the administration or carrying out of the provisions of this Act or the regulations where such person is a member of the Commission, a representative of the Commission or the registrar, or where such person or company was proceeding under the written or verbal direction or consent of any one of them or under an order of the Attorney-General made under this Act; or
- (b) against any exchange auditor, district association auditor, or association auditor employed under the provisions of clause *b* of section 33 in respect of the performance of his duties as such. 1947, c. 98, s. 74.

70. No person or company shall have any rights or remedies and no proceedings shall lie or be brought against any person or company in respect of any act or omission of the last-mentioned person or company done or omitted in compliance or intended compliance with, No proceedings against persons in respect of anything done or omitted in compliance with this Act, etc.

- (a) any requirement, order or direction under this Act of,
- (i) the Commission or any member thereof,

- (ii) the registrar,
 - (iii) any person appointed by order of the Attorney-General,
 - (iv) the Attorney-General,
 - (v) any representative of the Attorney-General, the Commission, registrar or of any person appointed by the Attorney-General; or
- (b) this Act and the regulations. 1950, c. 79, s. 21 (3), *part.*

Regulations. **71.** The Lieutenant-Governor in Council may make regulations,

- (a) prescribing requirements respecting applicants for registration;
- (b) prescribing the classes of negotiable securities which may be accepted as collateral security for a bond;
- (c) regulating the listing and trading of securities and records relating thereto;
- (d) governing the furnishing of information by any person or company registered under this Act to the public in connection with securities or trades therein;
- (e) governing the keeping of accounts and records and the preparation and filing of financial statements of the affairs of security issuers;
- (f) designating any person or company or any class of persons or companies which shall not be required to obtain registration as investment counsel;
- (g) prescribing the fees payable to the Commission, including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
- (h) prescribing the form, contents and other particulars relating to statements, agreements and other information required to be filed, furnished or delivered under this Act and the regulations;
- (i) prescribing the practice and procedure upon investigations under sections 21 and 23;
- (j) prescribing the forms for use under this Act and the regulations;
- (k) prescribing trades or securities, in addition to the trades and securities mentioned in section 19, in respect of which registration shall not be required;

- (l) prescribing trades or securities mentioned in section 19 in respect of which there shall cease to be exemption from registration; 1947, c. 98, s. 75, cls. (a-m).
- (m) prescribing trades or securities, in addition to the trades and securities mentioned in section 41, in respect of which sections 38, 39 and 40 shall not apply; 1948, c. 82, s. 14.
- (n) prescribing terms and conditions which shall be contained in an escrow or pooling agreement with respect to securities issued for a consideration other than cash;
- (o) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1947, c. 98, s. 75, cls. (o, p).

72. A statement as to,

Certificate
as evidence.

- (a) the registration or non-registration of any person or company;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Commission; or
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing or to any such person, document or material,

purporting to be certified by the Commission or a member thereof or by the registrar shall, without proof of the office or signature of the person certifying, be receivable in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. 1947, c. 98, s. 76.

73.—(1) Where a magistrate or justice of another province issues a warrant for the arrest of any person on a charge of violating any provision of this Act or any similar statute of that province, any magistrate or justice of Ontario within whose jurisdiction that person is or is suspected to be may upon satisfactory proof of the handwriting of the magistrate or justice who issues the warrant make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed shall be sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the magistrate or justice so endorsing the warrant to execute it within that jurisdiction and to take the person

Execution
of warrant
issued in
another
province.

arrested thereunder either out of or anywhere in Ontario and to re-arrest such person anywhere in Ontario.

Prisoner
in transit.

(2) Any constable of Ontario or of any other province of Canada who is passing through Ontario having in his custody a person arrested in another province under a warrant endorsed in pursuance of subsection 1 shall be entitled to hold, take and re-arrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. 1947, c. 98, s. 77.

Expenses.
Rev. Stat.,
c. 28.

74. Section 14 of *The Audit Act* shall apply *mutatis mutandis* as if the provisions thereof, except the references to the Deputy Attorney-General, were enacted in and formed part of this Act. 1947, c. 98, s. 78.

CHAPTER 352

The Security Transfer Tax Act**1. In this Act,**Interpreta-
tion.

- (a) "regulations" means regulations made under this Act;
- (b) "security" includes,
 - (i) any share of capital stock or debenture stock and any bond or debenture issued by any association, company, corporation or government,
 - (ii) any participating interest in the operations or profits of any association, company or corporation represented by certificates or other instruments of title capable of being sold, transferred or assigned, including mineral deeds, oil royalties, syndicate units and fixed investment trust shares issued by a trustee and representing an equitable ownership in deposited securities, and
 - (iii) guaranteed trust certificates and investment receipts;
- (c) "Treasurer" means Treasurer of Ontario. 1939, c. 45, s. 1.

2. There shall be imposed, levied, collected and paid to His Majesty for the uses of Ontario, a tax, ^{Tax imposed.}

- (a) upon every change of ownership consequent upon the sale, transfer or assignment of a security made or carried into effect in Ontario;
- (b) upon every order given to any person, firm or corporation in Ontario for the sale, transfer or assignment of a security when such order is to be executed outside of Ontario;
- (c) upon every transfer or delivery of a security exchanged for another security in Ontario, provided that this clause shall not apply where a company through a reorganization of its capital structure calls

in or redeems part or all of its issued securities and replaces them by other securities issued by such company to the same security holders; and

- (d) upon every delivery in Ontario of a security held in Ontario for the account of a non-resident of Canada consequent upon the sale, transfer or assignment executed within or without Ontario by or for such non-resident,

provided that only one of the clauses contained in this section shall apply to the same transaction. 1939, c. 45, s. 2.

Interpreta-
tion.

3.—(1) In this section, “share” and “share of stock” include a share of any participating interest in the operations or profits of any association, company or corporation and to a guaranteed trust certificate and an investment receipt.

Amount of
tax.

(2) The tax imposed by section 2 shall be as follows:

- (a) three cents for every \$100 or fraction thereof, of the par value of a bond, debenture or debenture stock;
- (b) for every share sold, transferred or assigned at a price or valuation of,
 - (i) over \$150 per share, four cents per share, plus one-tenth of one per cent of the price or value of such share in excess of \$150,
 - (ii) over \$75 per share, but not more than \$150 per share, four cents per share,
 - (iii) over \$50 per share, but not more than \$75 per share, three cents per share,
 - (iv) over \$25 per share, but not more than \$50 per share, two cents per share,
 - (v) over \$5 per share, but not more than \$25 per share, one cent per share,
 - (vi) \$1 per share, but not more than \$5 per share, one-quarter of one cent per share, and
 - (vii) less than \$1 per share, one-tenth of one per cent of the price or value; and
- (c) three cents for every \$100 or fraction thereof of the price or value of each syndicate unit, mineral deed, oil royalty, guaranteed trust certificate or investment receipt.

Determina-
tion of value.

(3) Except as hereinafter provided, if a change of ownership otherwise than by sale at the current market price is

effected, of any share of stock, such change of ownership shall be subject to the tax imposed by this Act, computed on the basis of the current market price of such share of stock.

(4) In any case where a current market price has not been established by recent sales, or where it is difficult to ascertain the value of the shares of stock, the Treasurer may fix a price which shall be the price on which the tax shall be paid. 1939, c. 45, s. 3.

4. The tax imposed by this Act shall be payable in security transfer tax stamps or cash by the vendor, transferor, assignor or, in the case of transfers and deliveries referred to in clauses *c* and *d* of section 2, by the person, company, corporation, bank or trust company making delivery. 1939, c. 45, s. 4.

Manner of payment.

5.—(1) The following transactions shall not be subject to the tax imposed by this Act:

Transactions exempt.

- (a) the sale, transfer or assignment of any bond, debenture or share of debenture stock of Canada or of any province of Canada;
- (b) the allotment by any association, company or corporation of its shares in order to effect an issue thereof, and the first issue of a bond, debenture, share of debenture stock or of any participating interest in the operations or profits of any association, company or corporation, represented by certificates or other instruments of title capable of being sold, transferred or assigned, including mineral deeds, oil royalties, fixed investment trust shares issued by a trustee and representing an equitable ownership in deposited securities;
- (c) the first issue of a guaranteed trust certificate or investment receipt; and
- (d) the transfer or assignment of a security made by a borrower *bona fide* as collateral security for an advance or loan and the retransfer or reassignment of such security to the borrower, provided that upon the property in the security passing to the lender as a result of the failure of the borrower to satisfy such advance or loan a change of ownership shall be deemed to have occurred and shall be subject to the tax imposed by this Act.

(2) For the purposes of this section the underwriting of a bond, debenture or debenture stock, or the first transaction whereby ownership or control is established, shall be deemed to be a first issue thereof. 1939, c. 45, s. 5.

Underwriting of bond, etc., to be deemed first issue.

Books and records.

6.—(1) Every person liable under this Act or the regulations to collect and pay the tax imposed by this Act shall keep such books and records at his place of business in Ontario as the Treasurer may require, and such books and records shall be open at all reasonable times to the inspection of the officers of the Treasury Department or such other persons as may be authorized by the Treasurer to inspect them.

Failure to keep books.

(2) If any person liable to maintain books and records for the purposes of this Act has, in the opinion of the Treasurer, failed to maintain adequate books and records, the Treasurer may assess the tax payable by such person and the tax so assessed shall be deemed to be due and payable forthwith.

Preventing inspections.

(3) Any person who in any way prevents or attempts to prevent any such officer or other person from having access to or inspecting any such books and records, and any person who being liable to keep such books and records refuses to produce them for inspection as required by subsection 1, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$500 and not more than \$5,000 and any penalty so recovered shall be payable to the Treasurer. 1939, c. 45, ss. 6, 17 (2).

Transaction by Ontario broker.

Rev. Stat., c. 351.

7. Every transfer, sale or assignment, ordered, made or carried into effect through a person engaged in the business of a broker within the meaning of *The Securities Act* in Ontario either for himself or on behalf of another person, shall be deemed to be ordered, made or carried into effect in Ontario unless the Treasurer certifies that the contrary has been established to his satisfaction. 1939, c. 45, s. 7.

Collection of tax.

8.—(1) Every stock broker, bond dealer, bank, trust company, person, company or corporation selling, transferring or assigning a security or taking or making delivery of a security on behalf of any person, shall collect from such person, the tax imposed by this Act and remit the amount thereof if paid in money, to the Treasurer in accordance with the regulations, and for such purpose the stock broker, bond dealer, bank, trust company, person, company or corporation shall be the agent of the Treasurer.

Penalty for failure to collect tax.

(2) Every stock broker, bond dealer, bank, trust company, person, company or corporation which fails to comply with the provisions of subsection 1 shall be liable, in addition to the payment of the tax collected or to be collected, to a penalty of \$500. 1939, c. 45, s. 8.

Annual return.

9.—(1) Every company or corporation, including every extra-provincial company or corporation which has a branch

or an agency, or an office of any kind in Ontario, shall on or before the last day of the month ending six months following the close of its fiscal year make an annual return to the Treasurer showing every sale, transfer or assignment of any registered security issued by such company or corporation made or carried into effect in Ontario, together with the amount of tax collected under this Act. 1939, c. 45, s. 9 (1); 1948, c. 83, s. 1.

(2) The return shall be verified by a certificate certifying Verification of return. that the statements in the return are in agreement with the books and records of the company or corporation, and the certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the company or corporation, and in the case of an extra-provincial company, by the manager or chief agent of the company in Ontario, or by such other person or persons connected with the company as the Treasurer may require.

(3) In the case of a company or corporation, the shares, Record of stock exchange. bonds, or debenture stock of which are sold and transferred upon an incorporated stock exchange, the Treasurer may accept a return from such exchange showing the total amount of such sales, transfers or assignments and the total amount of the tax collected under this Act.

(4) In the case of a company or corporation which has duly Records of transfer agent. appointed a trust company as transfer agent for its shares, bonds or debenture stock, the Treasurer may accept, in lieu of the annual return of such company, a statement from the transfer agent to the effect that the tax on all transfers made during the preceding year has been accounted for in accordance with this Act and the regulations.

(5) If a company or corporation makes default in comply- Penalty for violation. ing with the provisions of this section, the company or corporation shall be liable to a penalty of \$20 for every day during which the default continues, and every director, manager or secretary of the company or corporation who wilfully authorizes or permits such default shall be liable to a like penalty. 1939, c. 45, s. 9 (2-5).

10. Any company or corporation entering or permitting Penalty for permitting entry in register. the entry in any book or register under its control of any sale, transfer, or assignment of any security issued by it, unless the tax has been paid when such entry is made, shall be liable to a penalty of not less than an amount equal to the amount of the tax due and a further amount of not less than \$20 and not more than \$50. 1939, c. 45, s. 10.

11. For the purpose of obtaining any information which he Obtaining of information. may deem necessary for the purposes of this Act, the Treasurer may,

- (a) demand from any company or corporation or any officer or employee thereof, or any other person, such information as may be indicated in a letter delivered or sent by prepaid post to such company, corporation, officer, employee or other person and every such company, corporation, officer, employee or other person shall furnish to the Treasurer all such information which he has in his possession or under his control, in writing, within one month of the delivery or sending of such letter; or
- (b) appoint any officer of the Treasury Department to make such inquiry as may be necessary to obtain such information and for the purposes of such inquiry such officer shall have all the power and authority that may be conferred upon a commissioner under *The Public Inquiries Act*,

Rev. Stat.,
c. 308.

provided that any act done or proceeding taken under either of the clauses of this section shall not preclude the Treasurer from proceeding under the other clause. 1939, c. 45, s. 11.

Liability
for tax.

12. Notwithstanding any prior assessment or if no assessment has been made the person liable thereto shall continue to be liable for any tax imposed by this Act, or by *The Corporations Tax Act*, being chapter 29 of the Revised Statutes of Ontario, 1937, upon a change of ownership of a share, bond or other security, and to be assessed therefor and the Treasurer may at any time assess, reassess or make additional assessments upon any person for tax and penalties. 1939, c. 45, s. 12.

Demand
for payment.

13. Where the Treasurer finds any tax to be owing by any person he may send a demand for the payment of such tax to such person by prepaid post and such person shall pay the amount of the tax to the Treasurer within 30 days of the sending of such demand and in default of payment of such amount, a penalty of five per cent of the amount of tax payable shall be added thereto and thereafter a further penalty of one per cent per month shall be added for each additional month or portion thereof during which the tax and penalty remain unpaid. 1939, c. 45, s. 13.

Tax payable
outside
Ontario.

14. When it is shown to the satisfaction of the Treasurer that any change of ownership consequent upon the sale, transfer or assignment of a security, or upon any other transaction mentioned in section 2, is subject to a tax outside of Ontario and is subject to a similar tax under the laws of Ontario, he may make an allowance from the tax payable in Ontario in respect of the tax so paid. 1939, c. 45, s. 14.

15. Every person who makes any return or furnishes any information to the Treasurer under this Act containing any false statement shall be liable to a penalty of not more than \$10,000. 1939, c. 45, s. 15. Penalty for false statement.

16. Any person who, being thereto liable, neglects or refuses to pay the tax imposed by this Act, or who violates any of the provisions of this Act or the regulations for which no other penalty is provided shall be liable for every such violation to a penalty of not less than an amount equal to the amount of the tax due and not more than an amount equal to \$500 more than the amount of the tax due; provided that where no tax is due by such person the penalty shall be not less than \$50 and not more than \$500. 1939, c. 45, s. 16. Violations.

17. The tax imposed by this Act and the penalties imposed by sections 8, 9, 10, 13, 15 and 16 may be recovered by an action in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of the Treasurer or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury. 1939, c. 45, s. 17 (1). Recovery of tax and penalties.

18. If any doubt or dispute arises as to the liability of a person to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Treasurer may accept such amount as he may deem proper, and if the tax demanded has been paid under protest he may refund it or any part thereof. 1939, c. 45, s. 18. Dispute as to liability for tax.

19. The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) authorizing or requiring the Deputy Treasurer or any other officer of the Treasury Department to exercise any power or perform any duty conferred or imposed upon the Treasurer by this Act;
- (b) determining what constitutes a sale, transfer or assignment within the meaning of this Act;
- (c) prescribing in any case or class of cases the manner in which and the persons by whom the amount of any tax shall be computed and collected for and on behalf of His Majesty;
- (d) providing for the sale of stamps at a discount not exceeding three per cent to such persons and for such periods as he deems advisable;

- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1939, c. 45, s. 19; 1948, c. 83, s. 2.

Affidavits
and declara-
tions.

20. Declarations and affidavits in connection with this Act may be taken before any person having authority to administer an oath, or before any person specifically authorized for that purpose by the Lieutenant-Governor in Council, but any person so specifically authorized shall not charge any fee therefor. 1939, c. 45, s. 20.

Information
obtained
under Act,

21.—(1) No person employed in the service of His Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

penalty for
disclosing.

(2) Every person who violates any of the provisions of this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$200 and any penalty so recovered shall be payable to the Treasurer. 1939, c. 45, ss. 21, 17 (2).

CHAPTER 353

The Seduction Act

1. The father or, in case of his death, the mother, whether she remains a widow or has married again, of an unmarried female who has been seduced, and for whose seduction the father or mother could maintain an action if the unmarried female was at the time dwelling under his or her protection, may maintain an action for the seduction, notwithstanding that the unmarried female was, at the time of her seduction, serving or residing with another person upon hire or otherwise. R.S.O. 1937, c. 114, s. 1.

When action maintainable by father or mother.

2. Upon the trial of an action for seduction brought by the father or mother it shall not be necessary to prove any act of service performed by the person seduced, but it shall in all cases be presumed, and no evidence shall be received to the contrary; but if the father or mother of the person seduced had, before the seduction, abandoned her and refused to provide for and retain her as an inmate of his or her home, then any other person who might at common law have maintained an action for the seduction may maintain the action. R.S.O. 1937, c. 114, s. 2.

Proof of service dispensed with.

3. Any person, other than the father or mother, who by reason of the relation of master, or otherwise, would have been entitled at common law to maintain an action for the seduction of an unmarried female, may still maintain the action, if the father or mother be not resident in Ontario at the time of the birth of the child which is born in consequence of the seduction, or being resident therein does not bring an action for the seduction within six months from the birth of the child. R.S.O. 1937, c. 114, s. 3.

Where father or mother not resident in Ontario.

4. If the father and mother of an unmarried female who has been seduced are both dead, and the unmarried female is under the age of 21, any person, who at the time of the birth of the child which is born in consequence of the seduction, was the legal guardian of, or stood *in loco parentis* to the unmarried female, may maintain an action for the seduction, notwithstanding that the unmarried female was, at the time of her seduction, serving or residing with another person upon hire or otherwise. R.S.O. 1937, c. 114, s. 4.

Who may maintain action in case of infant orphan.



CHAPTER 354

The Seed Grain Subsidy Act

1.—(1) Subject to this Act, the council of any municipality may pass by-laws to guarantee payment by farmers resident within the municipality of debts contracted by such farmers in the purchase of seed grain. Guarantee of payments for seed grain.

(2) Every guarantee shall be made and given by the corporation of the municipality in the form and manner set forth in the by-law, but no guarantee shall be made or given unless the same is first approved and signed by the reeve and treasurer of the municipality. Form of guarantee.

(3) All seed grain purchased by a farmer under guarantee given under this Act shall be used only for seeding purposes upon the farm owned or occupied by such farmer within the municipality in which he resides. R.S.O. 1937, c. 279, s. 1. Seed grain, restrictions as to use.

2. The Lieutenant-Governor in Council may authorize the Treasurer of Ontario to pay out of the Consolidated Revenue Fund all such moneys as may be required to repay to the corporation of any municipality two-thirds of all sums expended by such municipality under or by virtue of any guarantees entered into by it under the authority of this Act. R.S.O. 1937, c. 279, s. 2. Repayment to municipality.

3. The Lieutenant-Governor in Council may make regulations respecting, Regulations.

- (a) the guarantees to be given by municipalities under this Act and the form and manner of execution thereof;
- (b) the aggregate amount which may be guaranteed by any municipality and the maximum amount for which any specific guarantee may be given;
- (c) the proofs to be required by farmers before any guarantee is given;
- (d) the statements and returns to be made by municipalities to the Department of Agriculture;
- (e) any other matter necessary or advisable to carry out effectively the intent and purpose of this act. R.S.O. 1937, c. 279, s. 3.

4. Any expenditures made or estimated to be made by the corporation of a municipality under this Act shall for the purposes of *The Municipal Act* and *The Assessment Act* form part of the current expenditure of such corporation in the year in which the same is made. R.S.O. 1937, c. 279, s. 4. Payments for seed grain to be deemed part of current expenditure. Rev. Stat., cc. 243, 24.



CHAPTER 355

The Seed Potatoes Act

1. In this Act,

Interpre-
tation.

- (a) "container" means any bag, sack, crate, barrel or other receptacle in which potatoes may be placed, stored, shipped, offered for sale or sold;
- (b) "Director" means Director of the Crops, Seeds and Weeds Branch of the Department of Agriculture;
- (c) "grower" means any person who grows more than one acre of potatoes;
- (d) "inspector" means an inspector appointed under this Act;
- (e) "Minister" means Minister of Agriculture;
- (f) "regulations" means regulations made under this Act;
- (g) "restricted area" means a seed potato restricted area constituted under the authority of this Act. 1950, c. 74, s. 1.

2.—(1) Upon receipt of a petition that, in the opinion of the clerk of the township, bears the signatures of more than 80 per cent of all growers in the area defined in the petition, the council shall pass a by-law constituting the whole or the part of the township described in the petition as a seed potato restricted area.

Petition
and by-law.

(2) The petition shall contain,

Petition,
contents of.

- (a) a detailed description of the boundaries of the proposed restricted area;
- (b) the approximate acreage of potatoes grown in the preceding year in the proposed restricted area;
- (c) a list of the names and addresses of all growers in the proposed restricted area. 1950, c. 74, s. 2.

3. The clerk shall send a certified copy of the by-law to the Director within seven days after it is passed. 1950, c. 74, s. 3.

Copy of
by-law to be
sent to
Director.

4. Where a by-law under this Act is passed, the council shall appoint one or more inspectors for the restricted area to

Inspectors.

enforce the provisions of this Act and the regulations. 1950, c. 74, s. 4.

Restricted area in territory without municipal organization.

5.—(1) Upon receipt of a petition containing the information required by subsection 2 of section 2 that, in the opinion of the Minister, bears the signatures of more than 80 per cent of all growers in the area defined in the petition where such area is situated in territory without municipal organization, the Lieutenant-Governor in Council may constitute the area described in the petition as a seed potato restricted area.

Inspectors in territory without municipal organization.

(2) The Minister shall appoint one or more inspectors for the restricted area to enforce the provisions of this Act and the regulations and shall fix the remuneration to be paid to any such inspector. 1950, c. 74, s. 5.

Power to enter premises.

6. In the performance of his duties under this Act and the regulations any inspector may at any time between sunrise and sunset enter any land, building or part of a dwelling house used for storing potatoes in the restricted area. 1950, c. 74, s. 6.

Seed to be planted.

7. No grower shall plant within a restricted area any seed potatoes other than those prescribed by the regulations. 1950, c. 74, s. 7.

Moving into area,

8. No person shall move or cause to be moved into a restricted area,

potatoes;

(a) any kind or grade of potatoes without a permit from an inspector; or

containers.

(b) any container which has been used as a container for potatoes or is infected with any potato disease. 1950, c. 74, s. 8.

New containers to be used.

9. All potatoes moved out of a restricted area shall be in new containers. 1950, c. 74, s. 9.

Potatoes for industrial processing, etc.

10. Potatoes moved into a restricted area for industrial processing or for re-shipment shall be stored in warehouses or other places of storage approved by an inspector as not being a possible source or means of spreading any potato disease. 1950, c. 74, s. 10.

Disinfecting containers, etc.

11. All places of storage, containers, and machinery used for potatoes in a restricted area shall be disinfected at least once each year, and any planting, harvesting or grading equipment used for potatoes shall be disinfected before such equipment is moved from one farm to another within a restricted area. 1950, c. 74, s. 11.

12. Every inspector shall once each year during the growing season and may at any time inspect the potato fields in his jurisdiction. 1950, c. 74, s. 12. Inspection of fields.

13. No person shall move or cause to be moved, from one farm to another within a restricted area, any potatoes infected with bacterial ring rot. 1950, c. 74, s. 13. Moving infected potatoes in area.

14. Every person who contravenes any of the provisions of this Act or the regulations, or hinders or obstructs an inspector in the performance of his duties, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$25 and not more than \$200. 1950, c. 74, s. 14. Penalty.

15. The Lieutenant-Governor in Council may make regulations, Regulations:

- (a) prescribing the kinds and grades of potatoes which may be planted in a restricted area;
 - (b) prescribing the duties of inspectors;
 - (c) providing for the making of grants by the Minister out of such moneys as may be appropriated by the Legislature for the purpose of reimbursing any township for any expense it has incurred under this Act;
 - (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1950, c. 74, s. 15.
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CHAPTER 356

The Separate Schools Act

PART I

PROTESTANT AND COLOURED SEPARATE SCHOOLS

1. Upon the application in writing of five or more heads of families resident in a township, city, town or village, being Protestants, the council of the township or the board of public school trustees of the city, town or village shall authorize the establishment therein of one or more separate schools for Protestants. R.S.O. 1937, c. 362, s. 1.

Conditions on which separate schools may be established.

2. Upon the application in writing of five or more heads of families resident in a township, city, town or village, being coloured people, the council of the township or the board of public school trustees of the city, town or village shall authorize the establishment therein of one or more separate schools for coloured people. R.S.O. 1937, c. 362, s. 2.

Coloured people.

3. In a township the council shall prescribe the location of the school or schools authorized to be established under sections 1 and 2. R.S.O. 1937, c. 362, s. 3.

Location.

4. No person shall be a supporter of any separate school for coloured people unless he resides within three miles in a direct line of the site of the schoolhouse. R.S.O. 1937, c. 362, s. 4.

Who may be supporter of school for coloured people.

5. There shall be three trustees for each separate school and the first meeting for their election shall be held and conducted in the manner provided by section 26. R.S.O. 1937, c. 362, s. 5.

Election of trustees.

6. On the 25th day of December next following the date of the application mentioned in sections 1 and 2, the separate school shall go into operation, and shall, with respect to the persons for whom it is established, be under the same regulations as the public schools. R.S.O. 1937, c. 362, s. 6.

Commencement and regulations.

7. None but coloured people shall vote at the election of trustees of a separate school established for coloured people, and none but the persons petitioning for the establishment of or sending children to a Protestant separate school shall vote at the election of trustees of such school. R.S.O. 1937, c. 362, s. 7.

Voters defined.

Union of
wards in
cities and
towns.

8. In a city or town the persons who make the application may have a separate school in each ward, or in two or more wards united as they may judge expedient. R.S.O. 1937, c. 362, s. 8.

Restriction
upon estab-
lishment of
Protestant
school.

9. No Protestant separate school shall be established in any school section except when the teacher of the public school in the section is a Roman Catholic. R.S.O. 1937, c. 362, s. 9.

Exemption
upon public
school rates.

10.—(1) In a city, town, village or township public school section in which a separate school exists, every Protestant or coloured person, as the case may be, paying rates, whether as owner or tenant, and being a supporter of the school, shall be exempt from the payment of all rates imposed for the support of public schools and public school libraries, or for the purchase of land or the erection of buildings for public school purposes, within the city, town, village or section in which he resides, for the then current year, and every subsequent year thereafter while he continues a supporter of the school.

Exemption
conditional.

(2) Such exemption shall not extend beyond the period during which such person is a supporter of the school, or to school rates or taxes imposed or to be imposed to pay for school-houses the erection of which was undertaken or entered into before the establishment of the separate school. R.S.O. 1937, c. 362, s. 10.

Not to
share.

11. Separate schools shall not share in money raised by local municipal assessment for public school purposes. R.S.O. 1937, c. 362, s. 11.

Share of
legislative
grant.

12. Every separate school shall share in the legislative public school grants in like manner as a public school. R.S.O. 1937, c. 362, s. 12.

Half-yearly
return to
inspector.

13.—(1) The trustees of every separate school shall, on or before the 30th day of June and the 31st day of December of each year, transmit to the public school inspector a correct return of the names of all Protestant or coloured persons, as the case may be, who have sent children to or who have subscribed for the support of the separate school during the last preceding six months, the names of the children sent and the amounts subscribed, together with a statement of the average attendance of pupils in the separate schools during such period.

Inspector
to report
to clerk.

(2) The inspector shall, upon the receipt of the return, forthwith make a return to the clerk of the municipality in which the separate school is established stating the names of all

the persons who being Protestant or coloured persons, as the case may be, contribute, or send children to the separate school.

(3) Except for a rate for building schoolhouses undertaken before the establishment of the separate school the clerk shall not include in the collector's roll for the general or other school rate and the board of trustees shall not include in their school rolls any person whose name appears upon the last-mentioned return. Exemption of supporters of separate schools from rates.

(4) The clerk or other officer of the municipality within which a separate school is established, having possession of the assessor's or collector's roll of the municipality, shall allow any trustee or the authorized collector of the board to make a copy of the roll so far as it relates to their school section. R.S.O. 1937, c. 362, s. 13. Use of assessor's roll by board.

14. Sections 27 to 50 and 52 to 55 shall apply to the trustees and teachers of the separate schools. R.S.O. 1937, c. 362, s. 14. Application of ss. 27-50, 52-55.

15. The trustees of a separate school shall be a body corporate under the name of "The Trustees of the Protestant (or Coloured) Separate School of.....in the Township (City, Town or Village, *as the case may be*) of", and shall have such powers as to imposing, levying and collecting school rates or subscriptions upon and from persons sending children to or subscribing towards the support of the separate school as are provided by section 68. R.S.O. 1937, c. 362, s. 15. Corporate name and powers.

PART II

ROMAN CATHOLIC SEPARATE SCHOOLS

ESTABLISHMENT

16. This Part shall apply to separate schools for Roman Catholics now or hereafter established. R.S.O. 1937, c. 362, s. 16. Application of Part.

17. In this Part,

- (a) "Department" means Department of Education;
- (b) "Minister" means Minister of Education;
- (c) "regulations" means regulations made under *The Department of Education Act*;
- (d) "rural school" means separate school for Roman Catholics in a township or in territory without municipal organization;

Interpretation.

Rev. Stat., c. 94.

- (e) "secretary" or "treasurer" includes secretary-treasurer;
- (f) "separate school" means separate school for Roman Catholics;
- (g) "urban school" means separate school for Roman Catholics in a city, town or village. R.S.O. 1937, c. 362, s. 17, *amended*.

Meeting to
establish a
separate
school.

18. Not less than five heads of families, being householders or freeholders resident within any public school section of a township, or within a city, town or village, and being Roman Catholics, may convene a public meeting of persons desiring to establish a separate school therein for the election of trustees. R.S.O. 1937, c. 362, s. 18.

Election of
trustees.

19. A majority of the persons present, being householders or freeholders, and Roman Catholics, may at the meeting elect from the duly qualified persons the requisite number of trustees. R.S.O. 1937, c. 362, s. 19.

Notice of
meeting;
and to
whom given.

20.—(1) Notice in writing that the meeting has been held, and of the election, shall be delivered by one of the trustees so elected to the head of the municipality or to the chairman of the board of public school trustees in the township, village, town or city in which the school is about to be established, designating by their names, occupations and residences the persons elected as trustees.

Notification
or result to
Department.

(2) The officer receiving the notice shall endorse thereon the date of its receipt, and shall deliver a copy of the notice so endorsed and duly certified by him to the trustee, who shall forthwith transmit the copy and a copy of the minutes of the meeting and of the notice calling it to the Department.

Corporate
name of
trustees.

(3) From and after the delivery of the notice to such officer the trustees therein named shall be a body corporate under the name, in the case of a city, town or village, of "The Board of Trustees of the Roman Catholic Separate Schools for the City (Town or Village, *as the case may be*) of " and in the case of rural boards of "The Board of Trustees of the Roman Catholic Separate School for School Section Number , in the Township of ". R.S.O. 1937, c. 362, s. 20.

Meeting for
purpose of
electing
trustees.

21.—(1) In unorganized townships and in any part of Ontario not surveyed into townships any number of heads of families, not less than ten, who are Roman Catholics, may, at a public meeting called for that purpose, elect three of their

number as school trustees, and the trustees so elected shall have all the powers of public school boards in unorganized townships, and shall in all other respects be subject to the provisions of this Act.

(2) On receipt of notice by the Department signed by the trustees so elected that a school has been established and suitable accommodation provided for school purposes, the Minister may pay to the board out of the appropriation made by the Legislature for public and separate schools such sum for the maintenance of the school as may be approved by the Lieutenant-Governor in Council. Legislative grants.

(3) The board may appoint a fit and proper person, who may be one of the trustees, to collect the rates imposed upon the supporters of the school or the sums which the inhabitants or others have subscribed or a rate-bill imposed upon any person, and may pay to the collector at the rate of not less than five and not more than ten per cent on the money collected by him, and every collector shall give such security as may be required by the board. Appointment of collector.

(4) Every collector shall have the same powers in collecting the school rate, rate-bill or subscription and shall be under the same liabilities and obligations and proceed in the same manner as a township collector in collecting rates in a township. Powers and duties of collectors.
R.S.O. 1937, c. 362, s. 21.

RURAL SEPARATE SCHOOLS

Meetings of Supporters and Elections

22. For every rural school there shall be three trustees, each of whom, after the first election, shall hold office for three years and until his successor has been elected. Trustees' term of office. R.S.O. 1937, c. 362, s. 22.

23.—(1) The trustees elected at the first meeting shall hold office, Retirement by rotation.

- (a) the person first elected, for two years from the annual school meeting next after his election and until his successor has been elected;
- (b) the person secondly elected, for one year from such annual school meeting and until his successor has been elected;
- (c) the person last elected, until the next ensuing annual school meeting and until his successor has been elected.

Vacancies. (2) A trustee elected to fill a vacancy shall hold office only for the unexpired term of the person in whose place he has been elected.

Resignation. (3) A trustee may resign with the consent in writing of the other trustees.

Re-election. (4) A retiring trustee may be re-elected with his own consent, otherwise he shall be exempted from serving for four years next after leaving office. R.S.O. 1937, c. 362, s. 23.

Trustees' qualification. **24.** Any person being a British subject not less than 21 years of age may be elected as a trustee whether he is or is not a householder or freeholder. R.S.O. 1937, c. 362, s. 24.

Electors, qualification of. **25.** Every householder or freeholder of the full age of 21 years, who is a supporter of a rural separate school, shall be entitled to vote at any election for school trustee or on any school question at any annual or special meeting of the supporters of the school. R.S.O. 1937, c. 362, s. 25.

Annual meeting, when held. **26.—(1)** A meeting of the supporters of the school shall be held annually on the last Wednesday of December, or if that day is a holiday on the next day following, commencing at ten o'clock in the forenoon, or if the board by resolution so directs at seven o'clock in the afternoon, for the purpose, among other things, of electing a school trustee or trustees.

Organization of meeting. (2) The supporters of the school present at the meeting shall elect one of themselves to preside over its proceedings and shall also appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required of him by this Part.

Order of business. (3) The business of the meeting may be conducted in the following order:

- (a) receiving and dealing with the annual report of the trustees;
- (b) receiving and dealing with the annual report of the auditors;
- (c) electing one or more auditors for the current year;
- (d) electing a trustee or trustees to fill any vacancy or vacancies; and
- (e) miscellaneous business.

Chairman, duties of. (4) The chairman shall preside and shall submit all motions to the meeting in the manner desired by the majority, and the chairman shall not be entitled to vote except in the case of an

equality of votes, when he shall give the casting vote, and he shall decide all questions of order subject to an appeal to the meeting. R.S.O. 1937, c. 362, s. 26 (1-4).

(5) Where a poll is demanded by two supporters of the school at a meeting for the election of a trustee the chairman shall forthwith grant the poll. R.S.O. 1937, c. 362, s. 26 (5); 1946, c. 87, s. 1 (1). Granting poll and proceedings in case of a poll.

(6) Where a poll is granted the secretary shall enter in a poll-book the name and residence of each qualified supporter of the school offering to vote within the time prescribed and shall furnish him, at the time of voting, with a ballot paper on the back of which he has placed his initials, and shall provide a pencil for the marking of the ballot paper. Entries in poll book.

(7) Ballot papers shall be pieces of plain white paper of uniform size. Form of ballot paper.

(8) A voter shall mark his ballot, Marking of ballot paper.

(a) in the election of a trustee, by marking the name of the trustee thereon; and

(b) on a question, by marking the word "for" or "against" thereon.

(9) Each voter shall mark his ballot paper in a compartment or other place provided for the purpose which is so arranged that the manner in which he marks his ballot is not visible to other persons and shall thereupon fold it so that the initials of the secretary can be seen without opening it and hand it to the secretary who shall, without unfolding it, ascertain that his initials appear upon it and shall then in full view of all present, including the voter, place the ballot in a ballot box or other suitable container which has been placed and is kept upon a table for the purpose. Manner of voting.

(10) Every candidate may appoint a person to act as his scrutineer during the election. 1946, c. 87, s. 1 (2), *part.* Appointment of scrutineer.

(11) Where an objection is made to the right of a person to vote at an annual or special meeting, either for trustee or upon a school question, the chairman shall require the person whose right to vote is objected to to make the following declaration whereupon the person making the declaration shall be entitled to vote: When voter is objected to.

I,..... declare,

(a) That I am an assessed householder or freeholder in School Section No. ;

(b) That I am of the full age of 21 years;

(c) That I am a supporter of the Roman Catholic Separate School in said School Section No. ;

(d) That as such supporter I have the right to vote at this meeting.

When poll
shall close.

(12) The poll shall not close before noon, but shall close at any time thereafter when a full hour has elapsed without any vote being polled, and shall not be kept open later than four o'clock in the afternoon.

Polling at
afternoon
meetings.

(13) When the meeting is held at seven o'clock in the afternoon the supporters present may decide by resolution that the polling shall take place forthwith or at ten o'clock on the following morning, and if it takes place forthwith the poll shall close when ten minutes have elapsed without any vote being recorded. R.S.O. 1937, c. 362, s. 26 (7-9).

Counting
votes,
casting
vote.

(14) When the poll is closed, the chairman and secretary shall count the votes polled for the respective candidates or affirmatively and negatively upon the question submitted, and if there is a tie the chairman shall give a second or casting vote.

Declaration
of result.

(15) In the case of an election of trustees the chairman shall then declare the candidate elected for whom the highest number of votes has been polled, and in case of a vote on a school question he shall declare the same adopted or negated as the majority of votes is in favour of or against the same.

Statement
of result
of poll.

(16) A statement of the result of the vote shall be certified by the chairman and secretary and in the case of an election of trustees the statement shall be signed by any scrutineers present at the counting of the ballots and a copy thereof shall be delivered to each candidate. 1946, c. 87, s. 1 (2), *part*.

Trans-
mitting
minutes to
Depart-
ment.

(17) A correct copy of the minutes of every meeting, signed by the chairman and secretary, shall be forthwith transmitted by the chairman to the Department.

Meetings to
be called in
default of
first or
annual
meetings.

(18) If from want of proper notice or other cause any meeting for the election of trustees is not held at the proper time any two supporters of the school may call a meeting by giving six days notice posted up in at least three of the most public places in the locality in which the school is situate, and the meeting thus called shall possess all the powers and perform all the duties of the meeting in the place of which it is called. R.S.O. 1937, c. 362, s. 26 (10, 11).

Organization of Board

Organiza-
tion and
quorum.

27. A majority of the trustees shall form a quorum, and the board shall be organized by the election of a chairman and of a secretary and a treasurer or of a secretary-treasurer. R.S.O. 1937, c. 362, s. 27.

28. No act or proceeding shall be valid which is not Regularity. adopted at a regular or special meeting of the board of which notice has been given as required by this Act and at which at least two trustees are present. R.S.O. 1937, c. 362, s. 28.

Duties of Officers

29. It shall be the duty of the secretary,

Duties of
secretary.

- (a) to keep a full and correct record of the proceedings of every meeting of the board in the minute book provided by the trustees, and to see that the minutes, when confirmed, are signed by the chairman or presiding trustee;
- (b) to call, at the request in writing of two trustees, a special meeting of the board;
- (c) to give notice of all meetings to each of the trustees by notifying him personally or in writing, or by sending a written notice to his residence. R.S.O. 1937, c. 362, s. 29.

30. It shall be the duty of the treasurer,

Duties of
treasurer.

- (a) to receive and account for all school money collected from the supporters of the school;
- (b) to disburse all such money in the manner directed by the board;
- (c) to produce all papers and money belonging to the board whenever called upon to do so by the board, the auditors or other competent authority, and to afford to the auditors all the information in his power as to the receipt and expenditure of school money; R.S.O. 1937, c. 362, s. 30.
- (d) to open an account in the name of the board in a chartered bank or in such other place of deposit as may be approved by the board and deposit to the credit of the account all money received by him on account of the board. 1949, c. 94, s. 1.

31.—(1) Every treasurer and collector and, if the board Security to
be given
by officers. so requires, every other officer of the board, shall give security for the faithful performance of his duties, and the security shall be deposited for safe keeping as directed by the board.

(2) The security to be given shall be by the bond, policy Form of
security. or guarantee contract of a guarantee company as defined in Rev. Stat.,
c. 162. *The Guarantee Companies Securities Act*. 1950, c. 75, s. 1.

Appointment of Auditor by Minister

Appoint-
ment of
auditor by
Minister.

32. Where a board neglects or the ratepayers at an annual or special meeting neglect to appoint an auditor, or an auditor appointed refuses or is unable to act, the Minister, upon the request in writing of any five supporters of the school, may make the appointment. R.S.O. 1937, c. 362, s. 31.

Union Boards

What
unions may
be formed.

33.—(1) The majority of the supporters of each of the separate schools situate in two or more public school sections, whether in the same or in adjoining municipalities, at a public meeting duly called by the board of each separate school may form a union separate school of which union the trustees shall give notice within 15 days to the clerk or clerks of the municipality or municipalities and to the Minister, and every union separate school thus formed shall be deemed one school for all Roman Catholic separate school purposes, and shall every year thereafter be represented by three trustees to be elected by the supporters of the union separate school as provided by section 26.

Corporate
name.

(2) The trustees shall be a body corporate under the name of "The Board of Trustees of the Roman Catholic Union Separate School for the United Sections numbers.....in the.....". R.S.O. 1937, c. 362, s. 32.

School Sites

Selection
and change
of school
site.

34.—(1) The board shall have power to select a site for a new schoolhouse or to agree upon a change of site for an existing schoolhouse, and shall forthwith call a special meeting of the supporters of the school to consider the site selected, and no site shall be adopted or change of school site made except in the manner hereinafter provided without the consent of the majority of such special meeting.

Arbitration
when
trustees and
ratepayers
differ as to
site.

(2) If a majority of the supporters present at the special meeting differ as to the suitability of the site selected, each party shall then and there appoint an arbitrator, and the inspector of separate schools for the district in which the school is situate, or, in case of his inability to act, a person appointed by him to act on his behalf, shall be the third arbitrator, and the three arbitrators, or a majority of them present at any lawful meeting, shall have authority to make and publish an award upon the matter submitted to them.

Recon-
sideration
of award.

(3) With the consent or at the request of the parties to the reference the arbitrators, or a majority of them, shall have authority, within one month from the date of their award, to

reconsider the award and within two months thereafter to make and publish a second award, which award, or the previous one if not reconsidered by the arbitrators, shall be binding upon all parties concerned for at least five years from the date thereof. R.S.O. 1937, c. 362, s. 33.

Separation

35.—(1) Where a separate school has been established in a public school section which includes an urban municipality or a portion of an urban municipality, and a township or a portion of a township, and a majority of the ratepayers assessed as separate school supporters in the township or portion of a township petition the board of the separate school to notify the inspector of separate schools that the separate school supporters in the township or portion of a township are desirous of establishing a separate school therein, the inspector may signify in writing to the board his approval of the establishment of the separate school, and thereupon a meeting may be held for the establishment of a separate school and the election of trustees, and the school may be established and trustees may be elected in the manner provided by this Part.

Establishment of separate school in a portion of rural section.

(2) The inspector and two other persons, one of whom shall be chosen by the separate school board of the urban municipality and the other by the board of the separate school so established in the township or portion of a township, shall constitute a board of arbitrators who, or a majority of whom, shall determine what proportion of the assets and liabilities of the original separate school board shall belong to, be paid to or be borne by the separate school board of the urban municipality and the board of the rural separate school respectively, and shall adjust all matters consequent upon the separation, and the award of the arbitrators shall be final and binding.

Arbitration.

(3) Nothing in this section shall relieve any property from liability for rates levied or to be levied for payment of school debentures issued prior to the establishment of the township separate school. R.S.O. 1937, c. 362, s. 34.

Property liable for debentures.

URBAN BOARDS

Trustees and Tenure of Office

36.—(1) For every ward into which a city or town is divided there shall be two trustees, each of whom, after the first election, shall continue in office for two years.

Trustees in city, etc., divided into wards.

(2) One of the trustees in each ward chosen at the first election, to be determined by lot at the first meeting of the board after their election, which determination shall be entered

Retirement by rotation.

upon the minutes, shall retire from office at the time appointed for the next annual school election and the other shall continue in office one year longer.

Number of trustees may be limited to six by resolution.

(3) In towns divided into wards the board by resolution may limit the number of trustees to six, provided that at least one month's notice was given of the intention to consider a resolution to that effect, and such limitation shall not come into operation until the close of the current school year.

Effect of adoption of resolution.

(4) When such resolution has been adopted, the election shall thereafter be by vote of the separate school ratepayers of the whole municipality.

Retirement.

(5) The board shall by lot determine what trustee or trustees shall retire in addition to the number retiring by annual rotation in order to admit of the election of three new trustees at the next annual election, and thereafter three trustees shall be elected annually by the separate school ratepayers of the whole municipality to fill the place of the same number retiring by rotation. R.S.O. 1937, c. 362, s. 35.

Trustees in village.

37.—(1) In every village there shall be six trustees, each of whom, after the first election, shall continue in office for two years.

Retirement by rotation.

(2) Three of the trustees chosen at the first election to be determined by lot at the first meeting of the board after their election, which determination shall be entered upon the minutes, shall retire from office at the time appointed for the next annual school election and the other three shall continue in office one year longer. R.S.O. 1937, c. 362, s. 36.

Term of office.

38. A trustee shall continue in office until his successor has been elected. R.S.O. 1937, c. 362, s. 37.

Election of Trustees

Nominations.

39.—(1) A meeting of the supporters of every urban school for the nomination of candidates for the office of school trustee shall take place at noon on the last Wednesday in the month of December annually, or if that day is a holiday, on the day following, at such place as shall from time to time be fixed by resolution of the board, and in municipalities divided into wards in each ward if the board thinks fit, and the board shall give at least six days notice of the meeting.

Returning officer.

(2) The board shall by resolution name the returning officers to preside at the meetings for the nomination of candidates, and in case of the absence of any such officer, a chairman chosen by the meeting shall preside.

(3) If at the meeting only the number of candidates necessary to fill the vacant offices is proposed and seconded, the returning officer or chairman, after the lapse of one hour, shall declare such candidates duly elected, and shall notify the secretary of the board; but if two or more candidates are proposed and seconded for any one office, and a poll in respect of the office is demanded by any candidate or school supporter, the returning officer or chairman shall adjourn the proceedings for filling the office until the first Wednesday of the month of January then next, when polls shall be opened at such places and in each ward, where wards exist, as shall be determined by resolution of the board.

Proceedings at nominations.

(4) The polls shall be opened at ten o'clock in the forenoon and shall continue open until five o'clock in the afternoon and no longer, and a poll may close at any time after eleven o'clock in the forenoon when a full hour has elapsed without any vote having been polled.

Hours of polling.

(5) The board shall, before the second Wednesday in December in each year, by resolution, fix the places for the nomination meetings and for holding the election in case of a poll, and name the returning officers who shall preside at the respective polling places, and forthwith give public notice thereof.

Place for nomination and election.

(6) The returning officer or chairman shall, on the day after the close of the election, return the poll book to the secretary of the board with his solemn declaration thereto annexed that the poll book has been correctly kept and contains a true record of the votes given at the polling place for which he was returning officer.

Duty of returning officer after close of election.

(7) The secretary shall add up the number of votes for each candidate for any office as appears from the poll book so returned, and shall declare elected the candidate or candidates having the highest number of votes.

Duty of secretary.

(8) If two or more candidates have an equal number of votes, at the first meeting of the board held after the election the member present who is assessed highest as a supporter of the school on the last revised assessment roll shall give a vote for one or more of such candidates so as to decide the election.

Casting vote.

(9) The voting for the election of trustees and for all other urban school purposes shall be by open vote, except as otherwise provided by section 40. R.S.O. 1937, c. 362, s. 38 (1-9).

Voting to be open.

(10) In a city or town divided into wards, the clerk of the municipality shall furnish to the board, within three days after request in writing, the voters' list for each ward, annexing thereto a list of the names of all supporters of separate schools

Furnishing voters' list in cities and towns divided into wards.

for Roman Catholics. R.S.O. 1937, c. 362, s. 38 (10); 1949, c. 94, s. 2.

Furnishing voters' list in towns not divided into wards, and in villages.

(11) In towns not divided into wards and in villages the clerk of the municipality shall furnish to the board within three days after request in writing the voters' list for each polling subdivision in such town or village as provided by subsection 10.

For each polling place.

(12) The board shall provide every polling place with such lists and with a poll book.

Entries in poll book.

(13) At every election at which a poll is demanded, the returning officer or chairman or the poll clerk shall enter in the poll book at the head of separate columns the names of the candidates proposed and seconded at the nomination, and shall opposite to such columns write the names and residences of the school supporters offering to vote at the election, and shall in each column in which is entered the name of the candidate voted for set the figure "1" opposite the voter's name, and where a poll is demanded upon any school question the name of each voter shall be similarly placed opposite separate columns headed "for" or "against".

Declaration by voters.

(14) If an objection is taken to the right of any person to vote, the returning officer or chairman shall require the person whose right to vote is objected to to take the declaration mentioned in subsection 11 of section 26.

Where non-resident is to vote.

(15) Where a school supporter resides without the municipality in which the school is situate, he shall be entitled to vote in that ward or division of the municipality in which the schoolhouse is situate which is nearest to his place of residence.

Furnishing voters' list of separate school supporters to board.

(16) In cities and towns, the clerk of the municipality, instead of furnishing to the board the lists as provided in subsection 10 or 11 shall, within three days after request in writing, furnish to the board the voters' list for each ward or polling subdivision, as the case may be, with the letter "S" marked or written therein opposite the name of every supporter of separate schools for Roman Catholics and after the name of every Roman Catholic wife or husband of such supporter. R.S.O. 1937, c. 362, s. 38 (11-16).

Adoption of ballot.

40.—(1) The board may, by resolution passed between the 1st day of May and the 1st day of October in any year, require the election of members of the board to be by ballot and to be held on the days on which the annual municipal elections are held.

Discontinuance.

(2) The board may in like manner discontinue the use of the ballot, and thereafter elections shall be conducted as provided by section 39.

(3) Where the board requires the voting to be by ballot and elections are so held, no change shall be made in the mode of voting for a period of three years, and if the mode of voting by ballot is discontinued, the provisions of section 39 shall apply for a period of three years at least after the discontinuance. R.S.O. 1937, c. 362, s. 39.

Ballot not to be discontinued or resumed for three years after the change.

41. Where the voting is to be by ballot, the provisions of *The Municipal Act* for and relating to holding the annual municipal elections, including those as to recount, secrecy of proceedings, offences and penalties, shall apply *mutatis mutandis*, except that,

Municipal Act to apply; Rev. Stat., c. 243.

(a) the oath to be taken by a voter shall be:

form of oath;

You swear that you are the person named (or intended to be named) in the list of voters now shown to you (*showing the list to the voter*);

That you are a ratepayer;

That you are of the full age of 21 years;

That you are a Roman Catholic separate school supporter;

That you have not voted before at this election;

That you have not, directly or indirectly, received any reward or gift and do not expect to receive any for the vote which you tender at this election;

That you have not received anything, nor has anything been promised you, directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team or any other service connected with this election;

That you have not, directly or indirectly, paid or promised anything to any person either to induce him to vote or refrain from voting at this election;

So help you God;

(b) when the result of the polling is indecisive by reason of two or more candidates having an equal number of votes, all of them shall be notified of the first meeting of the board after the election, and the member of the board present at such meeting who is assessed for the largest sum on the last revised assessment roll shall, before the organization of the board, give a vote for one or more of such candidates so as to decide the election;

casting vote;

(c) the duties to be performed by the clerk shall be performed by the secretary; and

duties of secretary;

(d) the word "secretary" shall be substituted for the words "clerk" or "clerk of the municipality" wherever they occur. R.S.O. 1937, c. 362, s. 40.

substituted term.

42. In cities and towns every person whose name is on the voters' list as entitled to vote at municipal elections and who is

Election of trustees, who may vote.

a supporter of separate schools for Roman Catholics, or who, being a Roman Catholic, is the wife or husband of a supporter of such separate schools, shall be entitled to vote at the election of trustees of the Roman Catholic separate schools. R.S.O. 1937, c. 362, s. 41.

Irregularities Not to Void Elections

No election to be invalid for want of compliance with Act where result not affected.

43. No election shall be invalid by reason of non-compliance with the provisions of this Act as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of forms, or of any irregularity, if it appears that the election was conducted in accordance with the principles laid down in this Act, and that the non-compliance or mistake or irregularity did not affect the result of the election. R.S.O. 1937, c. 362, s. 42.

Controverted Elections

Investigation of complaints by judge.

44.—(1) A judge of the county or district court, if a complaint respecting the validity or mode of conducting the election of any trustee in any municipality within his county or district is made to him within 20 days after the election, shall receive and investigate the complaint, and shall thereupon within a reasonable time, in a summary manner, hear and determine the same.

Powers of judge.

(2) The judge may by order cause the assessment rolls, collectors' rolls, poll books and any other records of the election to be brought before him, and may inquire into the facts on affidavit or by oral testimony, and may cause such persons to appear before him as he may deem expedient, and may confirm the election or set it aside, or declare that some other candidate was duly elected.

Order of judge.

(3) The judge may order a person found by him not to have been duly elected to be removed, and if the judge determines that any other person was duly elected, he may order him to be admitted, and if he determines that no other person was duly elected instead of the person removed, he shall order a new election to be held and shall report his decision to the secretary of the board.

Bribery and undue influence.

Rev. Stat., c. 243.

(4) The provisions of *The Municipal Act* as to bribery and undue influence shall apply, and, where the election is complained of on those grounds, the inquiry by the judge in reference thereto shall be by oral testimony only. R.S.O. 1937, c. 362, s. 43.

MEETINGS OF THE BOARD

Chairman at first meeting.

45.—(1) At the first meeting in each year the secretary shall preside or, if there is no secretary, the members present

shall select one of themselves to preside at the election of chairman, and the member so selected to preside may vote as a member.

(2) In case of an equality of votes at the election of chairman, the member present who is assessed as a separate school supporter for the largest sum on the last revised assessment roll shall have a second or casting vote in addition to his vote as a member. Casting vote.

(3) Subsequent meetings of the board shall be held at such times and places as may from time to time be fixed by resolution of the board. Subsequent meetings.

(4) Special meetings of the board may be called by the chairman, and shall be called on the request in writing of two members of the board specifying the objects for which the meeting is to be held, which shall also be stated in the notice calling the meeting. Special meetings.

(5) The chairman shall preside or, in his absence, any member appointed to act as chairman by the majority of those present, and the chairman or member so acting may vote with the other members on all questions, and any question on which there is an equality of votes shall be deemed to be negatived. Presiding officer.

(6) A majority of the members of the board shall constitute a quorum, but for the purposes of subsection 8 of section 39, a majority of the trustees remaining in office shall constitute a quorum. R.S.O. 1937, c. 362, s. 44. Quorum.

DUTIES AND POWERS OF TRUSTEES

46. It shall be the duty of every board and it shall have power, Duties of board.

- (a) to appoint a secretary and a treasurer or a secretary-treasurer and one or more collectors, if requisite, of the school fees or rate-bills, and the collector or collectors, and secretary and treasurer, or secretary-treasurer may be members of the board, and shall discharge duties, be subject to obligations and penalties, and have powers similar to those of like officers of the corporation of a municipality; appointment of officers;
- (b) to appoint annually on or before the 1st day of December an auditor or auditors; appointment of auditors;
- (c) to lay all the accounts of the board before the auditors, together with the agreements, vouchers, contracts and books in its possession, and afford the auditors all the information in its power as to the receipt and expenditure of school money; accounts;

to provide
accom-
modation
and
teachers;

- (d) to provide adequate accommodation and legally qualified teachers, according to the provisions of this Act and the regulations, for all children between the ages of five and twenty-one years of the supporters of the schools under the control of the board according to the annual enumeration of the assessors for the next preceding year; R.S.O. 1937, c. 362, s. 45, cls. (a-d).

to provide
and main-
tain school
premises;

- (e) to acquire or rent school sites and premises, and build, repair, furnish and keep in order the school-houses, furniture, fences and all other school property, and keep the wells, closets and premises in proper sanitary condition and to make provision for insuring adequately the school buildings and equipment; R.S.O. 1937, c. 362, s. 45, cl. (e); 1946, c. 87, s. 2 (1).

collection
of rates;

- (f) where the board does not appoint a collector, to apply to the municipal council, on or before the 1st day of February in each year, for the levying and collection of all sums for the support of their schools, and for any other school purposes authorized by this Act to be collected from the supporters of the separate schools under the control of the board, laying before the council an estimate of such sums; and such moneys shall be paid to the board on the warrant of the proper inspector;

notice of
names and
addresses;

- (g) to give notice in writing to the Department, before the 15th day of January in each year, of the names and post office addresses of the trustees then in office and of the teachers employed by the board, and give reasonable notice in writing from time to time of any changes therein;

orders for
money
expended;

- (h) to give orders on the treasurer of the board for all money to be expended for school purposes;

exemptions
and notice
thereof;

- (i) to exempt, in its discretion, from the payment of school rates wholly or in part, any indigent person, and to give notice of the exemption, when the school rate is collected by the municipal council, to the clerk of the municipality on or before the 1st day of February;

dismissal
of refrac-
tory pupils;

- (j) to dismiss from a school any pupil who is adjudged by the board and the teacher to be so refractory that his presence in school is injurious to other pupils, and, where practicable, to remove the pupil to a training school;

- (k) to take possession and have the custody and safe possession and custody of property keeping of all school property, acquired or given for school purposes, and to acquire and hold as a corporation, by any title whatsoever, land, movable property, money or income given to or acquired by the board at any time for school purposes and hold or apply the same according to the terms on which it was acquired or received; and to dispose by sale or otherwise of any school site or school property not required in consequence of a change of school site or other cause, and to convey the same and apply the proceeds thereof to school purposes or as provided by this Act;
- (l) to prepare and transmit to the Minister annually, annual report; before the 15th day of January, in the prescribed form, a report signed by the chairman containing all information required by the regulations;
- (m) to exercise all such other powers and perform all such other duties of public school boards as are applicable other powers and duties; to the case of separate schools, except as to matters as to which other provision is made by this Act;
- (n) to see that every school under its charge is conducted supervision; according to this Act and the regulations, and to provide school registers and a visitors' book in the prescribed form;
- (o) at its discretion, to pay the travelling expenses of any travelling expenses attending teachers' association; member of the board or of any teacher in its employment incurred in attending meetings of the Ontario Educational Association or other like association of teachers in Ontario;

In the case of an urban board,

- (p) to determine the number, kind, grade and description of schools to be established and maintained, the teachers to be employed, the terms on which they are to be employed, the amount of their remuneration and the duties which they are to perform; determine number and kind of schools, etc.;
- (q) to appoint from its members annually, or oftener if deemed expedient, and under such regulations as may be deemed proper, a committee of not more than three for the special charge, oversight and management of each school within the city, town or village, and to see that all the schools under its charge are conducted according to the regulations; to appoint a committee for each school;
- (r) to collect, at its discretion, from the parents or guardians of children attending any school under its books and school supplies;

charge a sum not exceeding 20 cents per month per pupil to defray the cost of text-books, stationery and other contingencies, and to see that all the pupils are duly supplied with a uniform series of text-books;

cadet corps
and
athletics;

- (s) to expend such sums as it may deem expedient for establishing and maintaining cadet corps and for promoting and encouraging gymnastic or other athletic exercises not exceeding \$200 per annum where the annual registered attendance of pupils does not exceed 3,000, and \$50 additional for each additional 1,000, and to provide uniforms for classes in military drill;

In the case of a rural board,

time and
place of
meetings;

- (t) to appoint the place of each annual school meeting of the supporters of the school, and the time and place of any special meeting for,
 - (i) filling any vacancy in the board,
 - (ii) the selection of a new school site,
 - (iii) the appointment of a school auditor, or
 - (iv) any other school purpose,

and to cause notices of the time and place and of the objects of such meetings to be posted in three or more public places of the neighbourhood in which the school is situate at least six days before the time of holding the meeting;

payment of
salaries;

- (u) to arrange for the payment of teachers' salaries quarterly and, if necessary, to borrow on its promissory note, under the seal of the corporation, at interest not exceeding eight per cent per annum, the money required for that purpose until the taxes are collected;

annual
report;

- (v) to cause to be prepared and read at the annual school meeting a report for the year then ending, containing among other things a summary of the proceedings of the board during the year, together with a full and detailed account of the receipts and expenditures of all school money during such year, and signed by the chairman and by one or both of the school auditors;

report on
blind, deaf
and dumb;

- (w) to ascertain and report to the Minister, at least once in each year, the names and ages of all children of school age who would otherwise be required to attend a school under its charge, who are deaf and dumb or blind;

- (x) if deemed expedient, to provide for surgical treatment of children attending the school suffering from minor physical defects where, in the opinion of the teacher and (where a school nurse and medical inspector is employed) of the nurse and medical inspector, the defect interferes with the proper education of the child, and to include in their estimates for the current year the funds necessary for cases where the parents are not able to pay. R.S.O. 1937, c. 362, s. 45 (*f-x*). providing attendance for minor surgical operations.

VACANCY IN OFFICE OF TRUSTEE

47.—(1) If a vacancy in the office of trustee for a rural school occurs from any cause the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person thereupon elected shall hold his seat for the residue of the term for which his predecessor held office. R.S.O. 1937, c. 362, s. 46 (1); 1940, c. 24, s. 6 (1). Vacancy in office of trustee.

(2) The new election shall be conducted in the same manner and be subject to the same provisions as an annual election. R.S.O. 1937, c. 362, s. 46 (2); 1940, c. 24, s. 6 (2). Proceedings at new election.

TEACHERS

48. Every agreement between a board and teacher, to be valid and binding, shall be in writing signed by the parties thereto, and sealed with the corporate seal of the board, and may include a stipulation to provide the teacher with board and lodging. R.S.O. 1937, c. 362, s. 47. Valid agreements with teacher.

49. It shall be the duty of every teacher,

- Duties of teacher,
- (a) to teach diligently and faithfully all the branches required to be taught in the school according to the terms of his agreement with the board and according to the provisions of this Act and the regulations; instruction;
 - (b) to keep in the prescribed form the general, entrance, and daily class or other registers of the school, and to record therein the admission, promotion, suspension or removal of the pupils; keeping registers;
 - (c) to maintain proper order and discipline in his schools according to the regulations; order and discipline;
 - (d) to keep a visitors' book, which the board shall provide, and enter therein the visits made to his school, and to request every visitor to enter therein any remarks suggested by his visit; visitors' book;

give access
to register
and visitors'
book;

- (e) to afford the trustees and visitors access at all times when desired by them to the registers and visitors' book;

deliver up
register and
key;

- (f) to deliver up the school register, visitors' book, schoolhouse key or other school property in his possession on the demand or order of the board, and in case of his wilful refusal so to do he shall not be deemed a qualified teacher until restitution is made, and shall also forfeit any claim which he may have against the board;

examina-
tions;

- (g) to hold during each term a public examination of his pupils, of which he shall give due notice to the trustees, to any school visitors whose place of residence is adjacent to the schoolhouse, and through the pupils to their parents or guardians;

to furnish
information
to the
Minister
and
inspector;

- (h) to furnish to the Minister, or to the separate school inspector, from the trustees' report or otherwise, any information which it is in his power to give respecting anything connected with the operations of his school or in any wise affecting its interest or character;

to prepare
reports.

- (i) to prepare so far as the school registers supply the information such reports of the board as are required by the regulations. R.S.O. 1937, c. 362, s. 48.

Change of
text-books.

50. Subject to the written approval of the board, any text-book authorized by the regulations or prescribed by the Minister which is in actual use in a separate school may be changed by the teacher for any other authorized or prescribed text-book on the same subject. 1945 (2nd Sess.) c. 8, s. 26.

Certificates
to teachers
of separate
schools.

51. Subject to the provisions of the Act passed in the seventh year of the reign of His late Majesty King Edward the Seventh, chaptered 52, and the amendments thereto, teachers shall be subject to the same examinations and receive their certificates of qualification in the same manner as public school teachers. R.S.O. 1937, c. 362, s. 50.

Proportion
of salary
to which
teacher is
entitled.

52. Unless otherwise expressly agreed a teacher shall be entitled to be paid his salary in the proportion which the number of days during which he has taught bears to the whole number of teaching days in the year. R.S.O. 1937, c. 362, s. 51.

Case of
sickness or
dental
treatment.

53.—(1) Every teacher shall be entitled to his salary notwithstanding his absence from duty on account of sickness for a period not exceeding four weeks in any one year of his

employment if the sickness is certified to by a physician, or in a case of acute inflammatory condition of the teeth or gums by a licentiate of dental surgery; but the period of four weeks may, in any case of sickness, be allowed and extended at the pleasure of the board without a certificate. R.S.O. 1937, c. 362, s. 52.

(2) Every teacher shall be entitled to his salary notwithstanding his absence from duty as a witness in any court to which he has been summoned in any proceedings to which he is not a party or one of the persons charged. 1943, c. 26, s. 15.

Appearing
as witness
in court.

54. If at the expiration of a teacher's engagement, his salary has not been paid in full the salary shall continue to run at the rate mentioned in the agreement until paid if an action to recover it is commenced within three months after the salary is due and payable. R.S.O. 1937, c. 362, s. 53.

Protection
of teachers
in regard to
salary.

55.—(1) All matters of difference between a board and a teacher in regard to salary or other remuneration, whatever may be the amount in dispute, shall be determined in the division court of the division in which the cause of action arose, subject to appeal as is provided by section 127 of *The Public Schools Act*.

Provision in
case of
difference
between
teacher and
trustees.

Rev. Stat.,
c. 316.

(2) If it appears to the judge on the trial of an action for the recovery of a teacher's salary that there was reasonable ground for the board disputing its liability, and that it was willing and offered to pay to the teacher any sum not so in dispute, the judge may relieve the board from the liability imposed by section 54 in whole or in part. R.S.O. 1937, c. 362, s. 54.

When judge
may relieve
board from
extra
liability.

ASSESSMENTS, BORROWING POWERS AND GRANTS

56.—(1) Every person paying rates, whether as owner or tenant, who by himself or his agent, on or before the 15th day of July in any year, gives to the clerk of the municipality notice in writing that he is a Roman Catholic and a supporter of a separate school situate in the municipality or in a municipality contiguous thereto shall be exempt from the payment of all rates imposed for the support of public schools and of public school libraries, or for the purchase of land or the erection of buildings for public school purposes within the city, town, village or section in which he resides, for the following year, and every subsequent year thereafter while he continues a supporter of a separate school. R.S.O. 1937, c. 362, ss. 55 (1), 71 *part, amended*.

Exemption
of sup-
porters of
separate
schools from
payment
of public
school rates.

(2) The notice shall not be required to be renewed annually. R.S.O. 1937, c. 362, s. 55 (2).

No renewal
required.

Time for notice by separate school supporter becoming resident.

(3) Where an owner or tenant is not, on or before the 15th day of July in any year, a resident of the municipality or rated upon the assessment roll thereof, but subsequently becomes so resident or liable to be so rated before the time for appealing from the assessment to the court of revision, he shall be entitled to give the notice provided for by this section at any time before the expiration of the time for appealing, and a notice so given shall have the same effect as if given on or before the 15th day of July of the year in which it is given. R.S.O. 1937, c. 362, ss. 55 (3), 71 *part*.

Certificate of notice.

(4) Every clerk of a municipality, upon receiving the notice, shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof.

Penalty for wilful false statements in notice.

(5) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, shall not thereby secure any exemption from the rates, and in addition shall be guilty of an offence and liable to a penalty of \$40.

As to rates imposed before separate school established.

(6) Nothing in this section shall exempt any person from paying any rate for the support of public schools, or public school libraries, or for the erection of a schoolhouse or schoolhouses, imposed before the establishment of the separate school. R.S.O. 1937, c. 362, s. 55 (4-6).

Residence of supporters of separate schools.

57. Subject to the other provisions of this Part, no person shall be deemed a supporter of a separate school unless he resides within three miles in a direct line of the site of the schoolhouse. R.S.O. 1937, c. 362, s. 56.

Where supporter resides within three miles of two or more schools.

58.—(1) A supporter of a separate school whose residence is within three miles of two or more separate schools shall be *ipso facto* a supporter of the school nearest by road to his place of residence. R.S.O. 1937, c. 362, s. 57 (1), *amended*.

Saving as to debenture debt.

(2) A supporter of a separate school having a debenture debt shall not be bound to become a supporter of another school while any part of such debt remains unpaid. R.S.O. 1937, c. 362, s. 57 (2).

Where person residing out of municipality to vote.

59. When a supporter of an urban school resides without the municipality in which the school is situate he shall be entitled to vote in the ward or polling subdivision in which the schoolhouse nearest to his place of residence is situate if within the distance of three miles in a direct line. R.S.O. 1937, c. 362, s. 58.

Liability of non-resident supporter.

60.—(1) Where a person is entitled to be and is a supporter of a separate school situate in a municipality other than that

in which he resides he shall be exempt from the payment of separate school taxes or rates in the municipality in which he resides, but shall be liable to pay and shall pay the school taxes or rates to the board of the school of which he is a supporter, and the same shall be based upon his assessment in the municipality in which he resides.

(2) The board of the school of which he is a supporter shall on or before the 1st day of August in each year notify the clerk of the municipality in which such supporter resides that he is a supporter of such school, and of the amount of the school taxes or rates payable by him, and the same shall be entered upon the collector's roll of the municipality for that year and collected in like manner as other taxes, and when collected shall be paid over to the board. R.S.O. 1937, c. 362, s. 59. How enforceable.

61. Any person who, if resident in a municipality, would be entitled to be a supporter of a separate school therein or in an adjoining municipality may, on giving the notice provided for by *The Assessment Act* that he is the owner of unoccupied land situate in either municipality, require that all such land as is situate either in the municipality wherein the separate school is situate or within the distance of three miles in a direct line of the site of the separate school shall be assessed for the purposes of the separate school, and the assessor shall thereupon enter such person in the assessment roll as a separate school supporter only. R.S.O. 1937, c. 362, s. 60. Right of non-residents to be assessed for separate school. Rev. Stat., c. 24.

62.—(1) A Roman Catholic who desires to withdraw his support from a separate school shall give notice thereof in writing to the clerk of the municipality on or before the fourth Wednesday in May in any year, otherwise he shall be deemed to be a supporter of the school. R.S.O. 1937, c. 362, ss. 61 (1), 71 *part.* Notice of withdrawal of support.

(2) A person who has withdrawn his support from a Roman Catholic separate school shall not be exempt from paying rates for the support of separate schools or separate school libraries, or for the erection of a separate schoolhouse, imposed before the time of his withdrawing such support. R.S.O. 1937, c. 362, s. 61 (2). Exception.

63.—(1) The clerk of every municipality shall keep entered in an index book (Form I) and in alphabetical order, the name of every person who has given to him, or to any former clerk of the municipality, notice in writing that such person is a Roman Catholic and a supporter of a separate school in or contiguous to the municipality, as provided by sections 56, 61, Clerk to keep index book.

66 and 67, or by former Acts respecting separate schools. R.S.O. 1937, c. 362, s. 62 (1).

Entries.

(2) The clerk shall enter opposite the name, in a column for that purpose, the date on which the notice was received, and in a third column opposite the name any notice by such person of withdrawal from supporting a separate school, as provided by section 62, or by any such other Act, with the date of the withdrawal, or any disallowance of the notice by the court of revision, by a judge of the county or district court, by the Ontario Municipal Board or by the Court of Appeal, with the date of the disallowance. R.S.O. 1937, c. 362, s. 62 (2); 1949, c. 94, s. 3.

Inspection.

(3) The index book shall be open to inspection by any ratepayer.

Filings.

(4) The clerk shall file and carefully preserve all such notices heretofore or hereafter received.

Assessor to be guided by index book.

(5) The assessor shall be guided by the entries in the index book in ascertaining who have given the prescribed notices. R.S.O. 1937, c. 362, s. 62 (3-5).

Correction of mistakes in assessing.

64.—(1) If it appears to the council of any municipality after the final revision of the assessment roll that through mistake or inadvertence a ratepayer has been entered on the roll either as a supporter of separate schools or as a supporter of public schools the council after due inquiry and notice may correct the error by directing the school taxes of the ratepayer to be paid to the proper school board; but it shall not be competent for the council to reverse the decision of the court of revision, a judge, the Ontario Municipal Board or the Court of Appeal on appeal. R.S.O. 1937, c. 362, s. 63 (1); 1949, c. 94, s. 4.

Liability.

(2) In case of such action by a council the ratepayer shall be liable for the same amount of school taxes as if he had in the first instance been properly entered on the roll. R.S.O. 1937, c. 362, s. 63 (2).

Distinguishing the school rates.

65.—(1) The clerk of every municipality, in making out the collector's roll, shall place columns therein so that under the heading of "School Rate" the public school rate may be distinguished from the separate school rate, and that under "Special Rate for School Debts" public school purposes may be distinguished from separate school purposes.

Idem.

(2) The proceeds of any such rate shall be kept distinguished by the collector and accounted for accordingly. R.S.O. 1937, c. 362, s. 64.

66.—(1) Where land is assessed against both owner and occupant, or the owner and tenant, the occupant or tenant shall be deemed to be the person primarily liable for the payment of school rates and for determining whether those rates shall be applied to public or separate school purposes, and no agreement between the owner or tenant as to the payment of taxes as between themselves shall alter or affect this provision. Case of owner and occupant.

(2) Where, as between the owner and tenant or occupant, the owner is not to pay taxes, if by the default of the tenant or occupant to pay the same, the owner is compelled to pay such school rate he may direct the same to be applied to either public or separate school purposes, and if the public school rate and the separate school rate are not the same he shall only be liable to pay the amount of the rate of the schools to which he directs his money to be paid. R.S.O. 1937, c. 362, s. 65. When owner may exercise option.

67.—(1) A corporation by notice (Form 2) to the clerk of any municipality wherein a separate school exists may require the whole or any part of the land of which the corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the whole or any proportion of the business assessment or other assessments of the corporation made under *The Assessment Act*, to be entered, rated and assessed for the purposes of the separate school. Right of corporation to support separate schools. Rev. Stat., c. 24.

(2) The assessor shall thereupon enter the corporation as a separate school supporter in the assessment roll in respect of the land and business or other assessments designated in the notice, and the proper entries shall be made in the prescribed column for separate school rates, and so much of the land and business or other assessments so designated shall be assessed accordingly for the purposes of the separate school and not for public school purposes, but all other land and the remainder, if any, of the business or other assessments of the corporation shall be separately entered and assessed for public school purposes. Duty of assessor.

(3) Unless all the stock or shares are held by Roman Catholics the share or portion of such land and business or other assessments to be so rated and assessed shall not bear a greater proportion to the whole of such assessments than the amount of the stock or shares so held bears to the whole amount of the stock or shares. How proportions settled.

(4) A notice given in pursuance of a resolution of the directors shall be sufficient and shall continue in force and be acted upon until it is withdrawn, varied or cancelled by a notice subsequently given pursuant to any resolution of the corporation or of its directors. Effect of notice.

Filing
notice.

(5) Every notice so given shall be kept by the clerk on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect an assessment roll.

Search for
notices.

(6) The assessor shall in each year, before the return of the assessment roll, search for and examine all notices which may be so on file and shall follow and conform thereto and to the provisions of this Act. R.S.O. 1937, c. 362, s. 66.

Powers of
trustees.

68.—(1) The board of a separate school may impose and levy school rates and collect school rates and subscriptions upon and from persons sending children to or subscribing towards the support of such schools, and may appoint collectors for collecting the school rates or subscriptions who shall have all the powers in respect thereof possessed by collectors of taxes in municipalities.

Land on
which there
are rates
uncollected.

(2) If a collector appointed by the board is unable to collect any part of a school rate charged on land liable to assessment, by reason of there being no person resident thereon or no goods and chattels to distrain, the board shall make a return to the clerk of the municipality before the end of the then current year of such land and the uncollected rates thereon.

Return.

(3) The clerk shall make a return to the county, city, town or village treasurer of such land and the arrears of separate school rates thereon.

Collection
of rates.

(4) The arrears shall be collected and accounted for by the treasurer in the same manner as the arrears of other taxes.

Deficiency.

(5) The council of the township, village, town or city in which the separate school is situate shall make up the deficiency arising from such uncollected rates out of the general funds of the municipality. R.S.O. 1937, c. 362, s. 67.

Trustees
may copy
assessment
roll of
municipality.

69. The clerk or other officer of a municipality within or adjoining which a separate school is established, having possession of the assessor's or collector's roll of the municipality, shall permit any trustee or the collector of the board to make a copy of the roll in so far as it relates to the persons supporting the separate school. R.S.O. 1937, c. 362, s. 68.

Clerk to
give trustees
annual
statement
of supporters
of separate
schools.

70. The clerk of a municipality in which there is a separate school shall, once in each year, upon the written request of the board, deliver to it a statement in writing showing the names of all persons appearing upon the assessment roll for the current year who have given the notice required by section 56, with the amount for which each person has been rated upon the assessment roll. R.S.O. 1937, c. 362, s. 69.

71.—(1) A municipal council, if so requested by the board at or before the meeting of the council in the month of February in any year or prior thereto if required by the council, shall, through its collectors and other municipal officers, cause to be levied in such year upon the taxable property liable to pay the same all sums of money for rates or taxes imposed thereon in respect of separate schools. R.S.O. 1937, c. 362, ss. 70 (1), 71 *part*; 1949, c. 94, s. 5.

Collection of separate school rates by the municipality.

(2) Any expenses attending the assessment, collection or payment of school rates by the municipal corporation or any of its officers shall be borne by the corporation, and the rates or taxes, as and when collected, shall within a reasonable time thereafter, and not later than the 14th day of December in each year, be paid over to the board without any deduction whatever. R.S.O. 1937, c. 362, s. 70 (2).

Expenses of collection.

72.—(1) A separate school board and the council of a municipality, three-fifths of whose members are not separate school supporters, may enter into an agreement for a term of years that for each year of the term and at such times and in such sums as may be agreed upon, in lieu of and as being the amount to be levied and collected in such year for separate school purposes, there shall be paid by the corporation of the municipality to the board a fixed proportion of the total amount levied and collected within the municipality in and for the year for both public and separate school purposes.

Agreements between municipality and trustees as to payment in lieu of separate school rate.

(2) If in and for any year the rate of assessment actually levied for separate school purposes within the municipality is not the same as that actually levied therein for public school purposes the agreement shall not be in force for or apply to such year.

Exception.

(3) The agreement may be determined by either of the parties thereto at the end of any calendar year on giving six months previous notice to the other party. R.S.O. 1937, c. 362, s. 72.

Termination.

73. The separate school board of a municipality or in a school section or union school section shall have and may exercise the same rights, powers and privileges with respect to the establishment and maintenance of continuation schools and shall be subject to the same duties and obligations with respect to such schools as the public school board of the municipality, section or union school section as the case may be. R.S.O. 1937, c. 362, s. 73.

Right to establish and maintain continuation schools.

74. Notwithstanding anything contained in any by-law or resolution heretofore or hereafter passed by any board of separate school trustees or in any debenture issued thereunder, the board may at any time by by-law provide that all moneys

Sinking funds for separate school debentures.

therefore or thereafter collected on account of sinking fund for payment of any such debenture shall,

Rev. Stat.,
c. 243.

- (a) be paid over to the Treasurer of Ontario to be dealt with as provided in section 327 of *The Municipal Act*; or
- (b) be invested in securities of the Province of Ontario and for that purpose the board may sell or dispose of any securities in which such sinking fund moneys have theretofore been invested or withdraw such moneys from any loan company, trust company or bank in which they may be deposited. R.S.O. 1937, c. 362, s. 75.

Borrowing
powers of
trustees of
separate
schools.

75.—(1) The board of a separate school may pass by-laws for borrowing money for school purposes and for making mortgages and other instruments for the security and payment thereof, or of money payable or to be paid for school sites, school buildings or additions thereto, or the repairs thereof, upon the schoolhouse property and premises or any other real or personal property vested in the board, or upon the separate school rates, and any ratepayer who was a separate school supporter at the time when the loan was effected on the security of the property or rates shall, while resident within the section or municipality within which the separate school is situate, continue to be liable for the rate to be levied for the repayment of the money so secured.

Terms of
payment.

(2) The principal money may be made payable in annual or other instalments, with or without interest, and the board, in addition to all other rates or money which it may levy in any one year, may levy and collect in each year such further sum as may be requisite for paying all principal money and interest falling due in that year, and the same shall be levied and collected in each year in the same manner and from the like persons and property by, from, upon or out of which other separate school rates may be levied and collected.

Debentures.

(3) Such mortgages and other instruments may in the discretion of the board be made in the form of debentures, and the debentures shall be a charge on the same property and the rates as in the case of mortgages thereof made by the board.

Maturity.

(4) The debt to be so incurred and the debentures to be issued therefor may be made payable in 30 years at the furthest, and in equal annual instalments of principal and interest, or in any other manner authorized by *The Municipal Act* in the case of debentures issued under that Act.

Sinking
fund.

(5) Where the debt is not payable by instalments the board shall levy in each year during its currency in addition to the

amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable, which shall be invested in the manner provided by *The Municipal Act* as to the investment of sinking funds. Rev. Stat., c. 243.

(6) Every such by-law, before being acted upon, shall be published at least for three successive weeks in some public newspaper published weekly or oftener in the city, town or county in which the separate school is situate, and if no application to quash the by-law is made for three months after the publication thereof the by-law shall be valid, notwithstanding any want of substance or form in the by-law or in the time or manner of passing the same. Publication of by-law.

(7) The debentures issued under the by-law may be for such amounts as the board may deem expedient. Amounts. R.S.O. 1937, c. 362, s. 76.

76.—(1) Every separate school shall be entitled to share in all grants, investments and allotments for public school purposes made by any municipal authority according to the average number of pupils attending the school during the next preceding 12 months, or during the number of months which may have elapsed from the establishment of a new separate school, as compared with the whole average number of pupils attending school in the same city, town, village or township. Right of separate schools to a share of municipal grant.

(2) Where the grant is made by a county council the same shall be apportioned in like manner as the legislative grant. Apportionment.

(3) A separate school shall not be entitled to share in any school money arising or accruing from local assessment for public school purposes within the city, town, village or township in which the school is situate. No share of local assessment for public schools. R.S.O. 1937, c. 362, s. 77.

MISCELLANEOUS

77. The Minister, the judges of all courts, members of the Assembly, heads of the municipal corporations in their respective localities, the inspectors of public schools and clergymen of the Roman Catholic Church shall be visitors of separate schools. Visitors of separate schools. R.S.O. 1937, c. 362, s. 78.

78. The schools with their registers shall be subject to such inspection as may be directed by the Minister and shall be subject also to the regulations. Inspection of schools. R.S.O. 1937, c. 362, s. 79.

Model
schools.

79. The Minister may, subject to the regulations, constitute a separate school in any county or district a model school for the training of teachers for separate schools. R.S.O. 1937, c. 362, s. 80.

Disagree-
ment
between
trustees,
inspectors,
etc.

80. In the event of a disagreement between a board and the inspector of public schools or any municipal authority or of a complaint against the election of a rural school trustee or against the establishment of a school in close proximity to an existing school, or any other proceeding of a rural school meeting, signed by five supporters of the school concerned or of such existing school, the matter in difference shall be determined by the Minister, subject to an appeal to the Lieutenant-Governor in Council, whose decision shall be final. R.S.O. 1937, c. 362, s. 81.

Investment
of moneys.

81. The board may invest any proceeds from an insurance claim or any moneys received for any special purposes through legacy, gift or otherwise, and for such purposes shall have and may exercise the powers conferred upon trustees by *The Trustee Act*. 1950, c. 75, s. 3.

Rev. Stat.,
c. 400.

PENSIONS, ETC.

Grant by
board to
superannua-
tion fund.

82. Subject to the regulations, the separate school board of a city or town may make such annual grant as may be deemed proper for the establishment or in aid of a superannuation fund for the teachers and officers of the board of the city or town, and make rules prescribing the terms and conditions upon and under which they shall be entitled to participate therein, and may make it a term of the engagement of a teacher or officer that he shall contribute to the fund such annual sum as may be prescribed by such rules. R.S.O. 1937, c. 362, s. 91 (1).

Pensions.

R.S.C., 1927,
c. 7.
Rev. Stat.,
c. 183.

83.—(1) The board, by resolution, may provide, by arrangement either with His Majesty pursuant to the *Government Annuities Act* (Canada) or with an insurer licensed under *The Insurance Act*, or with both His Majesty and an insurer as aforesaid, pensions for employees or any class thereof and their wives and children.

Interpre-
tation.

(2) In this section, "employee" does not include a teacher or an inspector.

Approval of
Minister.

(3) No resolution passed under this section shall become operative until approved by the Minister, nor shall any such resolution so passed and approved be amended or repealed without the approval of the Minister.

(4) The board shall make such payments or contributions to the scheme as are provided for in the resolution. Contributions by board.

(5) The board shall deduct from the salary, wages or other remuneration of every employee to whom the scheme is applicable, the amount which the employee is required by the resolution to contribute. 1950, c. 75, s. 4 (1), *part*. Deduction of contributions.

84.—(1) The board, by resolution, may establish a system of sick leave credit gratuities and payments for the regular attendance of employees or any class thereof. Sick leave credits.

(2) No resolution passed under subsection 1 shall become operative until approved by the Minister, nor shall any resolution so passed and approved be amended or repealed without the approval of the Minister. 1950, c. 75, s. 4 (1), *part*. Approval of Minister.

SCHOOL YEAR AND HOLIDAYS

85.—(1) The school year shall consist of two terms, the first of which shall begin on the first Tuesday of September following Labour Day and shall end on the 22nd day of December, and the second of which shall begin on the 3rd day of January and end on the 29th day of June. R.S.O. 1937, c. 362, s. 93 (1); 1938, c. 35, s. 35 (1). Terms.

(2) When the 3rd day of January is a Friday the schools shall not be opened until the following Monday, and when the 29th day of June or the 22nd day of December is a Monday the schools shall be closed on the preceding Friday. R.S.O. 1937, c. 362, s. 93 (2); 1938, c. 35, s. 35 (2). When opening or closing days Friday or Monday.

(3) Every Saturday, every public holiday, the 24th day of May, the 11th day of November, the day appointed annually to be celebrated officially as the birthday of the reigning sovereign, the week following Easter Day, and every day proclaimed a holiday by the authorities of the municipality in which the teacher is engaged and every day upon which a school is closed under the provisions of *The Public Health Act* or the regulations of the Department, shall be a school holiday. 1944, c. 56, s. 19. Holidays. Rev. Stat., c. 306.

(4) With the approval of the inspector the board of a rural school may substitute holidays in some other part of the year for part of the time herein allowed for Easter and Midsummer vacations to suit the convenience of pupils and teachers, but the number of holidays prescribed by subsections 1 and 3 shall be allowed in each year. R.S.O. 1937, c. 362, s. 93 (4). In rural schools.

PENALTIES AND PROHIBITIONS

86. Where a teacher negligently or wilfully permits a book which is not authorized by the regulations or prescribed Use of unauthorized books.

by the Minister to be used as a text-book by the pupils of his school, the Minister, on the report of the inspector, may suspend the teacher, and the board may also deduct from his salary a sum equal to so much of the legislative grant as has been withheld on account of the use of the book or any less sum at its discretion. 1945 (2nd Sess.) c. 8, s. 28.

False
declaration
as to right
to vote.

87. Any person who wilfully makes a false declaration of his right to vote at any school meeting or at an election of school trustees shall be guilty of an offence and liable to a penalty of not less than \$5 and not more than \$10. R.S.O. 1937, c. 362, s. 95.

Disqualifi-
cation of
trustees as
teachers and
inspectors.

88.—(1) A separate school trustee shall not be eligible for appointment,

(a) as a separate school inspector; or

(b) as a teacher by the board of which he is a member or by any public, continuation or high school board having jurisdiction in the whole or any part of the area in which the board of which he is a member has jurisdiction.

Disqualifi-
cation of
teachers as
trustees.

(2) A separate school teacher shall not be eligible to be a member of the separate school board with which he has a teacher's contract, nor to be a member of any public, continuation or high school board having jurisdiction in the whole or any part of the area in which the board with which he has a teacher's contract has jurisdiction.

Disqualifi-
cation of
inspectors.

(3) A separate school inspector shall not be eligible to be a separate school trustee or teacher while he holds the office of inspector. 1950, c. 75, s. 5.

Seat
vacated
by convic-
tion for
crime, etc.

89. If a trustee is convicted of any indictable offence, or becomes mentally ill, or without being authorized by resolution entered upon the minutes, absents himself from the meetings of the board for three consecutive months, or ceases to reside within the municipality in the case of an urban school or within three miles of the school in the case of a rural school, he shall *ipso facto* vacate his seat and the remaining trustee or trustees shall declare his seat vacant. R.S.O. 1937, c. 362, s. 97.

Seat vacated
by interest
in contract
with board.

90.—(1) A trustee shall not enter into any contract, agreement, engagement or promise, either in his own name or in the name of another, and either alone or jointly with another, in which he has any pecuniary interest, profit or promised or expected benefit, with the board of which he is a member, or have any pecuniary claim upon or receive compensation from the board for any work, engagement, employment or duty on

behalf of the board, and every such contract, agreement, engagement or promise shall be null and void and a trustee violating the provisions of this section shall *ipso facto* vacate his seat.

(2) On the complaint of two supporters of the school or of the remaining trustee or trustees the judge of the county or district court shall, on proof of the facts, declare the seat vacant, and the remaining trustee or trustees shall forthwith order a new election. When seat may be declared vacant.

(3) Nothing in this section shall prevent a trustee receiving payment for services as a collector or prevent the board from allowing the secretary or treasurer such compensation for his services as may be approved at the annual meeting of the supporters of the school and duly entered in the minutes. Exception.

(4) No person shall be disqualified from being a member of a board or from sitting and voting on such board by reason only of his being proprietor of or otherwise interested in a newspaper or other periodical publication subscribed for by the board or in which an advertisement is inserted in the regular course of business if the advertisement or subscription is paid for at the usual rate, but such member shall not be entitled to vote where his own account is in question. Newspaper proprietors.

(5) If deemed expedient, the board may pay the costs, or any part thereof, incurred by any member, teacher, officer or employee of the board in successfully defending any legal proceeding brought against him for libel or slander in respect of any statements published at any meeting of the board or any committee thereof, relating to the employment, suspension or dismissal by the board of any person. Costs of legal proceedings. R.S.O. 1937, c. 362, s. 98.

91. Any person who wilfully interrupts or disquiets the proceedings of a school meeting or a separate school by rude or indecent behaviour, or by making a noise either within the place where the meeting is held or the school is kept or so near thereto as to interfere with the proceedings of the meeting or order of exercises of the school, shall be guilty of an offence and liable for each offence to a penalty of not more than \$20. Penalty for disturbing a school or school meeting. R.S.O. 1937, c. 362, s. 99.

92. A trustee who refuses to serve after being duly elected shall be guilty of an offence and liable to a penalty of \$5, and a person elected as a trustee who as such attends any meeting of the board after becoming disqualified shall be guilty of an offence and liable to a penalty of \$20 for every meeting so attended. Refusing to serve, and acting while disqualified. R.S.O. 1937, c. 362, s. 100.

Penalty for refusal to perform duties.

93. Every person elected as trustee who has not refused to accept the office and who at any time refuses or neglects to perform its duties shall be guilty of an offence and liable to a penalty of not more than \$20. R.S.O. 1937, c. 362, s. 101.

Penalty for failing to transmit minutes.

94. A chairman who neglects to transmit to the inspector a minute of the proceedings of any annual or other rural school meeting over which he has presided within 10 days after the holding of the meeting shall be guilty of an offence and liable to a penalty of not more than \$5. R.S.O. 1937, c. 362, s. 102.

Liability for neglect to take security.

95. If a board refuses or neglects to take proper security from the treasurer or other person to whom it entrusts school money, and any school money is forfeited or lost to the board in consequence of the refusal or neglect, every member of the board shall be personally liable for such money and the same may be recovered by the board or any supporter interested therein in any court of competent jurisdiction, but no member shall be liable if he proves that he made reasonable efforts to procure the taking of the security. R.S.O. 1937, c. 362, s. 103.

Secretary, treasurer or trustee refusing to deliver up books and money.

96.—(1) A secretary or treasurer and a person having been a secretary or treasurer and a trustee or other person who has in his possession any book, paper, chattel or money which came into his possession as such secretary, treasurer, trustee or otherwise shall not wrongfully withhold, or neglect or refuse to deliver up, or account for and pay over the same or any part thereof to the person and in the manner directed by the board or by other competent authority. R.S.O. 1937, c. 362, s. 104.

Summons for appearance.

(2) Upon application to a judge of the county or district court by the board or by any two supporters of the school, supported by affidavit, showing such wrongful withholding or refusal, the judge may summon the secretary, treasurer, trustee, or person to appear before him at a time and place appointed by him.

Service of summons.

(3) A bailiff of a division court, upon being requested so to do, shall serve the summons or a true copy thereof on the person complained against personally or by leaving it with a grown-up person at his residence.

Order to account, etc.

(4) At the time and place so appointed, the judge, if satisfied that service has been made, shall, in a summary manner, and whether the person complained against does or does not appear, hear the complaint, and if he is of opinion that it is well founded, the judge shall order the person complained against to deliver up, account for and pay over the book, paper, chattel or money by a day to be named by the judge in

the order, together with such reasonable costs incurred in making the application as the judge may allow.

(5) In the event of non-compliance with the order, the judge may order the person complained against to be forthwith arrested by the sheriff of any county or district in which he may be found, and to be committed to the common jail of the county or district in which he resides, there to remain without bail until the judge is satisfied that he has delivered up, accounted for or paid over the book, paper, chattel or money in the manner directed by the board or other competent authority.

Effect of non-compliance with judge's order.

(6) Upon proof of his having so done, the judge shall make an order for his discharge and he shall be discharged accordingly.

Discharge upon compliance.

(7) Upon proof that the person has done all in his power to deliver up, account for or pay over the book, paper, chattel or money as directed, the judge may order his discharge on such terms or conditions as he may deem just.

Discharge upon terms.

(8) Such proceedings shall not impair or affect any other remedy which the board or any other person may have against the person complained against or against any other person.

Other remedy not affected.

R.S.O. 1937, c. 362, s. 105.

97. It shall be the duty of the board and of the secretary and the treasurer to furnish the auditors with any papers or information in its or his power which may be required of it or him relating to the school accounts, and any member of the board or a secretary or treasurer who neglects or refuses so to do shall be guilty of an offence and liable to a penalty of not more than \$20. R.S.O. 1937, c. 362, s. 106.

Penalty on trustees refusing information, etc., to auditors.

98. If a board neglects to transmit its annual report to the Minister in accordance with clause 1 of section 46, each member of the board shall, for every week during which the default continues and until such report is transmitted, be guilty of an offence and liable to a penalty of \$5. R.S.O. 1937, c. 362, s. 107.

Penalty for delaying yearly report.

99. If a trustee knowingly signs a false report, or if a teacher keeps a false school register or makes a false return, he shall be guilty of an offence and for every such offence shall be liable to a penalty of not more than \$20. R.S.O. 1937, c. 362, s. 108.

Penalty for false school reports and registers.

100.—(1) The trustees of every separate school shall be personally responsible for the amount of any school money forfeited by or lost to the board in consequence of their neglect of duty.

Personal responsibility for money lost.

Collection
and
application.

(2) The amount so forfeited or lost shall when collected be applied in the manner provided for by this Act. R.S.O. 1937, c. 362, s. 109.

Recovery
and applica-
tion of
penalties.
Rev. Stat.,
c. 379.

101. Except as otherwise provided, the penalties imposed by or under the authority of this Act shall be recoverable under *The Summary Convictions Act* and shall be applied to such separate school purposes as the Minister may direct. R.S.O. 1937, c. 362, s. 110.

FORM I

FORM OF INDEX BOOK

(Section 63 (1))

Names	Notices claiming exemption, when received	Remarks
Allen, John.....	3rd February, 19	Notice of withdrawal received 1st January, 19
Ardagh, Joseph.....	3rd February, 19	Disallowed by Court of Revision, 1st June, 19
Ashbridge, Robert.....	3rd February, 19	

R.S.O. 1937, c. 362, Form A.

FORM 2

NOTICE BY CORPORATION AS TO APPLICATION OF SCHOOL TAX

(Section 67 (1))

To the Clerk of (*describing the municipality*)

Take notice that (*here insert the name of the corporation so as to sufficiently and reasonably designate it*) pursuant to a resolution in that behalf of the directors requires that hereafter and until this notice is either withdrawn or varied, the whole or so much of the assessment for land and business or other assessments of the corporation within (*giving the name of the municipality*) as is hereinafter designated, shall be entered, rated and assessed for separate school purposes, namely, one-fifth (*or as the case may be*) of the land and business or other assessments.

Given on behalf of the said company this (*here insert date*).

R.S., Secretary of the Company.

R.S.O. 1937, c. 362, Form B.

CHAPTER 357

The Settled Estates Act**1.—(1) In this Act,**Interpreta-
tion.

- (a) "court" means the Supreme Court;
- (b) "income" includes rents and profits;
- (c) "land" includes incorporeal hereditaments and an undivided share in land;
- (d) "possession" includes receipt of income;
- (e) "settled estate" means land and all estates or interests in land which are the subject of a settlement;
- (f) "settlement" means a statute, deed, agreement, will or other instrument, or any number of such instruments, under or by virtue of which land or any estate or interest in land stands limited to or in trust for any persons by way of succession, including any such instruments affecting the estates of any one or more of such persons exclusively.

(2) For the purposes of this Act a tenant in tail after possibility of issue extinct shall be deemed to be a tenant for life.

Tenant in
tail after
possibility
of issue
extinct.

(3) All estates or interests in remainder or reversion not disposed of by the settlement, and reverting to a settlor or descending to the heir, or as upon an intestacy to the representative of a testator, shall be deemed to be estates coming to such settlor, heir or representative under or by virtue of the settlement.

Estates in
remainder
or reversion
not disposed
of by settle-
ment.

(4) In determining what are settled estates within the meaning of this Act the court shall be governed by the state of facts and by the trusts or limitations of the settlement at the time of the settlement taking effect. R.S.O. 1937, c. 117, s. 1.

Determining
what are
settled
estates.

2.—(1) The court, if it deems it proper and consistent with a due regard for the interests of all persons entitled under the settlement, and subject to the provisions and restrictions of this Act, may authorize leases of any settled estate or of any rights or privileges over or affecting any settled estate, for any purpose whatsoever, the following conditions being observed:

Power to
authorize
leases of
settled
estates.

When lease
to take
effect.

- (a) Every such lease shall be made to take effect in possession at or within one year after the making thereof, and shall be for such term of years as the court shall direct, where the court is satisfied that it is beneficial to the inheritance to grant a lease.

Best rent
to be
reserved.

- (b) On every such lease shall be reserved the best rent or reservation in the nature of rent, either uniform or not, that can be reasonably obtained, to be made payable half-yearly or oftener, and to be incident to the immediate reversion; but in the case of a mining lease, a repairing lease or a building lease a nominal rent or any smaller rent than the rent to be ultimately made payable may, if the court thinks fit so to direct, be made payable during all or any part of the first five years of the term of the lease.

Exception.

Reservation
of rent in
leases of
earth, coal,
stone or
mineral.

- (c) Where any such lease is of any earth, coal, stone or mineral a certain portion of the whole rent or payment reserved shall be from time to time set aside and invested, when and so long as the person for the time being entitled to the receipt of the rent is a person who by reason of his estate or by virtue of any declaration in the settlement is entitled to work the earth, coal, stone, or mineral for his own benefit, one-fourth part of the rent, and in other cases three-fourth parts thereof, and in every such lease sufficient provision shall be made to ensure such application of that portion of the rent by the appointment of trustees or otherwise, as the court deems expedient.

Cutting
timber.

- (d) No such lease shall authorize the cutting of any timber or the felling of any trees except in the ordinary course of husbandry, or so far as shall in the judgment of the court be necessary, nor shall it be made without impeachment of waste.

Form of
lease.

- (e) Every such lease shall be by deed, in duplicate, executed by the lessor and lessee, and shall be subject to the statutory right of re-entry for non-payment of rent contained in *The Landlord and Tenant Act*.

Rev. Stat.,
c. 199.

Agreements
for renewal.

- (2) Any such lease may contain an agreement for the renewal or renewals thereof if the court thinks fit, and the court may determine the length of time for which the renewal or renewals, if any, may be made. R.S.O. 1937, c. 117, s. 2.

Special
covenants.

3. Subject and in addition to the conditions hereinbefore mentioned every such lease shall contain such covenants, conditions and stipulations as the court deems expedient with reference to the special circumstances of the demise. R.S.O. 1937, c. 117, s. 3.

4. The power to authorize leases conferred by this Act shall authorize leases either of the whole or any part of the settled estate, and may be exercised from time to time. R.S.O. 1937, c. 117, s. 4. Leases of parts of settled estates.

5. A lease, whether granted in pursuance of this Act or otherwise, may be surrendered either for the purpose of obtaining a renewal of the same or not, and the power to authorize leases conferred by this Act shall authorize a new lease of the whole or any part of the hereditaments comprised in any surrendered lease. R.S.O. 1937, c. 117, s. 5. Surrender and renewal.

6. The power to authorize leases conferred by this Act shall extend to authorize preliminary contracts to grant such leases, and any of the terms of such contracts may be varied in the leases. R.S.O. 1937, c. 117, s. 6. Preliminary contracts.

7. The power to authorize leases conferred by this Act may be exercised by the court either by approving of a particular lease or by ordering that the power of leasing in conformity with this Act, shall be vested in trustees in the manner hereinafter mentioned. R.S.O. 1937, c. 117, s. 7. Mode in which leases may be authorized.

8. Where application is made to the court either to approve of a particular lease or to vest any power of leasing in trustees the court shall require the applicant to produce such evidence as it deems sufficient to enable it to ascertain the nature, value and circumstances of the estate and the terms and conditions on which leases thereof ought to be authorized. R.S.O. 1937, c. 117, s. 8. What evidence to be produced on an application to authorize leases.

9. Where a particular lease or contract for a lease has been approved by the court the court shall direct what person shall execute the same as lessor, and the lease or contract executed by such person shall take effect in all respects as if he had been at the time of the execution thereof absolutely entitled to the whole estate or interest which is bound by the settlement, and had immediately afterwards settled the same according to the settlement, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the court directs. R.S.O. 1937, c. 117, s. 9. Direction as to who shall be lessor.

10. Where the court deems it expedient that any general power of leasing any settled estate conformable with this Act should be vested in trustees it may, by order, vest any such power accordingly either in the existing trustees of the settlement or in any other person or persons, and the power, when exercised by such trustees, shall take effect in all respects as if the power so vested in them had been originally contained in When powers of leasing may be vested in trustees.

the settlement, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the court directs, and in every such case the court may impose any conditions as to consents or otherwise on the exercise of the power and may also authorize the insertion of provisions in any such order for the appointment of new trustees from time to time for the purpose of exercising the power of leasing. R.S.O. 1937, s. 117, s. 10.

Conditions
that leases
be settled
by the
court.

11. In any order under this Act for vesting any power of leasing in any trustees or other person or persons no conditions shall be inserted requiring that the lease thereby authorized shall be submitted to or be settled by the court or be made conformable with a model lease, unless the person applying for the order desires to have any such condition inserted or it appears to the court that there is some special reason for the insertion of such a condition. R.S.O. 1937, c. 117, s. 11.

Striking
out such
conditions.

12. In any order, whether under this Act or under any other Act, in which any such condition has been inserted, any person interested may apply to the court to alter the order by striking out the condition, and the court may alter the same accordingly, and the order so altered shall have the same validity as if it had originally been made in its altered state; but the court may decline to act under this provision in any case in which it appears to the court that for any special reason such a condition is necessary or expedient. R.S.O. 1937, c. 117, s. 12.

Powers of
court,

13.—(1) The court, if it deems it proper and consistent with a due regard for the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Act, may,

to authorize
mortgages
for purpose
of repairs,
etc.;

(a) from time to time authorize a mortgage of the whole or any part of any settled estate for the purpose of raising money to repair, rebuild or alter any existing building upon the estate, or otherwise to build upon or improve the same; or for the purpose of raising money to pay off and discharge wholly or in part any encumbrance thereon;

to authorize
sales of
settled
estates and
of timber;

(b) from time to time authorize a sale of the whole or any part of any settled estate or of any easement, right or privilege, of any kind, over or in relation to the same, or of any timber not being ornamental timber growing on the settled estate;

to sanction
proceedings
for protec-
tion of estate.

(c) sanction any action, defence, petition to the Legislature or other proceeding appearing to the court necessary for the protection of any settled estate, and

order that all or any part of the costs and expenses in relation thereto be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate, or be raised and paid out of the rents and profits of the settled estate, or out of any money or investment representing money liable to be laid out in the purchase of land to be settled in the same manner as the settled estate, or out of the income of such money or investment, or out of any accumulations of rents, profits or income.

(2) Such mortgage shall be authorized where the court is of opinion that the interests of the estate or any part thereof or of the persons entitled to the estate or any part thereof require, or will be substantially promoted by such mortgage, When mortgages authorized.

(3) Every such sale shall be conducted and confirmed in the same manner as by the rules and practice of the court is required in the sale of land under an order of the court. R.S.O. 1937, c. 117, s. 13. How sales conducted.

14. Where land is sold for building purposes the court may allow the whole or any part of the consideration to be a rent issuing out of the land, which may be secured and settled in such manner as the court approves. R.S.O. 1937, c. 117, s. 14. Rental as consideration for land sold for building.

15. On any sale of land, any earth, coal, stone or mineral may be excepted and any rights or privileges may be reserved, and the purchaser may be required to enter into any covenants or submit to any restrictions which the court deems advisable. R.S.O. 1937, c. 117, s. 15. What may be reserved.

16.—(1) The court, if it deems it proper and consistent with a due regard for the interests of all persons entitled under the settlement and subject to the provisions and restrictions of this Act, may from time to time direct that any part of any settled estate be laid out for streets, roads, paths, squares, gardens, or other open spaces, or for sewers, drains or watercourses, either to be dedicated to the public or not, and may direct that the parts so laid out shall, subject to this Act, remain vested in the trustees of the settlement or be conveyed to or vested in any other trustees upon such trusts for securing the continued appropriation thereof to such purposes in all respects and with such provisions for the appointment of new trustees when required as the court deems advisable. Dedications for streets, etc.

(2) Where any part of any settled estate is directed to be laid out for such purposes the court may direct that open spaces, sewers, drains or watercourses, including all necessary and proper fences, pavings, connections and other works How provision made for laying out streets, etc.

incidental thereto, be made and executed, and that all or any part of the expenses in relation to such laying out and making and execution be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate, or be raised and paid out of the rents and profits of the settled estate or any part thereof, or out of any money or investments representing money liable to be laid out in the purchase of land to be settled in the same manner as the settled estate, or out of the income of such money or investments, or out of any accumulations of rents, profits or income, and the court may also give such directions as it deems advisable for any repair or maintenance of any such streets, roads, paths, squares, gardens or other open spaces, sewers, drains or watercourses or other works out of any such rents, profits, income or accumulations during such period as the court deems advisable.

Restrictions.

Rev. Stat.,
cc. 336, 197,
243, 277.

(3) The powers hereby granted shall be exercised subject to *The Registry Act, The Land Titles Act, The Municipal Act, The Planning Act* and any other Act dealing with the subdivision of land and the registration of plans. R.S.O. 1937, c. 117, s. 16.

Directions
as to execu-
tion of deeds.

17. On every sale, mortgage or dedication made under the authority of this Act the court may direct what person shall execute the deed of conveyance or mortgage, and the deed or mortgage executed by such person shall take effect as if the settlement had contained a power enabling such person to effect the sale, mortgage or dedication, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the court directs. R.S.O. 1937, c. 117, s. 17.

Who may
apply for
exercise of
powers.

18.—(1) Any of the persons authorized by section 32 to make a demise of a settled estate, and any person entitled to the possession or to the receipt of the rents and profits of a settled estate for any greater estate than the estate mentioned in that section and the assigns of any such person may apply to the court to exercise the powers conferred by this Act.

Where
jointly
entitled.

(2) Where two or more persons are entitled as tenants in common, joint tenants or co-parceners, any or either of them may make the application. R.S.O. 1937, c. 117, s. 18.

With whose
consent
application
to be made.

19.—(1) Subject to the exceptions hereinafter mentioned every application to the court under this Act shall be made with the concurrence or consent of the following persons:

- (a) Where there is a tenant in tail under the settlement in existence and of full age the persons to concur or consent shall be the tenant in tail, or if there is more than one tenant in tail then the first of the tenants in tail and all persons in existence having

any beneficial estate or interest under or by virtue of the settlement prior to the estate of the tenant in tail, and all trustees having any estate or interest on behalf of any unborn child prior to the estate of the tenant in tail.

- (b) In every other case the persons to concur or consent shall be all those in existence having any beneficial estate or interest under or by virtue of the settlement and also all trustees having any estate or interest on behalf of any unborn child.

(2) Where the concurrence or consent of any person mentioned in subsection 1 has not been obtained notice shall be given to such person in such manner as the court directs, requiring him to notify within a time to be specified in the notice whether he assents to or dissents from the application or submits his rights or interests, or so far as they may be affected by the application, to be dealt with by the court, and every notice shall specify to whom and in what manner the notification is to be delivered or left.

Notice to persons who do not consent or concur.

(3) If no notification is delivered or left in accordance with the notice and within the time thereby limited the person to or for whom the notice has been given or left shall be deemed to have submitted his rights and interests to be dealt with by the court.

Effect of non-reply.

(4) Where the concurrence or consent of any such person has not been obtained, and if such person cannot be found or if it is uncertain whether he is living or dead, or if it appears to the court that the notice cannot be given to him without expense disproportionate to the value of the subject matter of the application, the court if it thinks fit, either on the ground of the rights or interests of such person being small or remote or being similar to the rights or interests of any other person or on any other ground, may by order dispense with notice to such person, and such person shall thereupon be deemed to have submitted his rights and interests to be dealt with by the court.

When court may dispense with notice.

(5) An order may be made notwithstanding that the concurrence or consent of any such person has not been obtained or has been refused, but the court, in considering the application, shall have regard to the number of persons who concur in or consent to the application and who dissent therefrom or who submit or are to be deemed to submit their rights or interests to be dealt with by the court, and to the estates or interests which such persons respectively have or claim to have in the estate, and every order made upon such application shall have the same effect as if all such persons had been consenting parties thereto.

When court may dispense with consent.

Order saving
rights of
non-consent-
ing parties.

(6) The court may give effect to any application subject to, and so as not to affect the rights, estate or interest of any person whose concurrence or consent has been refused, or who has not submitted or is not deemed to have submitted his rights or interests to be dealt with by the court, or whose rights, estate or interest ought in the opinion of the court to be excepted. R.S.O. 1937, c. 117, s. 19.

Notice to
trustees, etc.

20. Notice of any application under this Act shall be served on all trustees who are seized or possessed of any estate in trust for any person whose consent to or concurrence in the application is hereby required, and on any other persons who in the opinion of the court ought to be so served, unless the court dispenses with such notice. R.S.O. 1937, c. 117, s. 20.

When
notice of
application
to be given
in the news-
papers.

21. Notice of any application, if the court so directs but not otherwise, shall be published in such newspapers as the court directs, and any person, whether interested in the estate or not, may be heard in opposition to or in support of the application, and the court may permit such person to appear and be heard in opposition to or in support of the application on such terms as to costs or otherwise and in such manner as it thinks fit. R.S.O. 1937, c. 117, s. 21.

Where a
similar ap-
plication
has been re-
jected by
the Legis-
lature.

22. The court shall not grant an application where the applicant, or any person entitled, has previously applied to the Legislature for a private Act to effect the same or a similar object, and such application has been rejected on its merits, or reported against by the judges to whom the Bill was referred. R.S.O. 1937, c. 117, s. 22.

Application
of money
arising
from sales,
etc.,

23. All money to be received on any sale effected under the authority of this Act, or to be set aside out of the rent or payments reserved on any lease of earth, coal, stone or mineral may, if the court thinks fit, be paid to any trustees of whom it shall approve, otherwise the same be paid into court, and such money shall be applied as the court from time to time directs to one or more of the following purposes:

- (a) The payment of any costs which the court orders to be paid.
- (b) The discharge of any encumbrance affecting the land in respect of which the money was paid, or affecting any other land subject to the same uses or trusts.
- (c) The purchase of other land to be settled in the same manner as the land in respect of which the money was paid.

(d) The payment of the expenses connected with any buildings, repairs, rebuilding, alterations or improvements authorized to be made upon the settled estate.

(e) The payment to any person becoming absolutely entitled. R.S.O. 1937, c. 117, s. 23.

24. The application of the money if the court so directs may be made by the trustees to whom the court has authorized the money to be paid, without any application to the court, or upon an order of the court upon the petition of the person who would be entitled to the possession or the receipt of the rents and profits of the land if the money had been invested in the purchase of land. R.S.O. 1937, c. 117, s. 24.

Application of money in certain cases without application to court.

25. Until the money can be so applied the interest accruing thereon shall be paid as the court directs to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land. R.S.O. 1937, c. 117, s. 25.

Payment of interest.

26. Where any purchase money paid into court or to trustees under this Act has been paid in respect of a lease for a life or lives or years, or for a life or lives and years, or of any estate in land less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, the court may, on the petition of any person interested in the money, order that the interest which accrues thereon be paid in such manner as the court considers will give to the parties interested in the money the same benefit therefrom as they might lawfully have had from the lease, estate or reversion in respect of which the money has been paid, or as near thereto as may be. R.S.O. 1937, c. 117, s. 26.

Application of money in respect of leases or reversions.

27.—(1) The court may exercise any of the powers conferred on it by this Act whether the court has already exercised any of such powers in respect of the same property or not; but no such powers shall be exercised if any express declaration that they shall not be exercised is contained in the settlement.

Court may exercise powers repeatedly.

(2) The circumstance that the settlement contains powers to effect similar purposes shall not preclude the court from exercising any of the powers conferred by this Act if it thinks that the powers contained in the settlement ought to be extended. R.S.O. 1937, c. 117, s. 27.

Notwithstanding express powers.

28. Nothing in this Act shall empower the court to authorize any lease, mortgage, sale or other act beyond the

Extent of powers.

extent to which, in the opinion of the court, the same might have been authorized in and by the settlement by the settlor. R.S.O. 1937, c. 117, s. 28.

Validity
of acts.

29. After the completion of any lease, mortgage or sale, or other act under the authority of the court and purporting to be in pursuance of this Act, the same shall not be invalidated on the ground that the court was not empowered to authorize the same. R.S.O. 1937, c. 117, s. 29.

Orders of
court con-
clusive.

30.—(1) An order of the court under jurisdiction conferred by this Act shall not, as against a lessee, mortgagee or purchaser, be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service, whether he had or had not notice of any such want.

Scope of
section.

(2) This section shall have effect with respect to any lease, mortgage, sale or other act under the authority of the court and purporting to be in pursuance of this Act, or to be in pursuance of any former Act, notwithstanding any exception in any former Act. R.S.O. 1937, c. 117, s. 30.

Costs.

31. The court may order that any costs or expenses of any persons of and incident to any application under this Act shall be a charge on the land which is the subject of the application, or on any other land included in the same settlement and subject to the same limitations, or may direct the same to be paid out of the corpus or income of any fund realized by the sale, mortgage or lease of such estate under this Act, and the court may also direct that the costs and expenses, to be taxed and paid as the court directs, shall be raised by a sale or mortgage of a sufficient part of such land or out of the rents or profits thereof. R.S.O. 1937, c. 117, s. 31.

Power to
make leases
for 21 years.

32.—(1) The following persons, unless the settlement contains an express declaration that it shall not be lawful for them to make the demise, may from time to time and without any application to the court, except as hereinafter mentioned, demise the settled estate or any part thereof for any term, not exceeding 21 years, to take effect in possession at or within one year next after the making thereof:

- (a) A person entitled to the possession or to the receipt of the rents and profits of any settled estate, for an estate for life or for a term of years determinable with any life or lives or for any greater estate not holding merely under a lease at a rent.
- (b) A tenant in tail, including a tenant in tail who is by statute restrained from barring or defeating his

entail and although the reversion is in the Crown and so that the exercise by him of his powers under this Act shall bind the Crown, but not including such a tenant in tail where the land in respect of which he is so restrained was purchased with money provided by any legislation in consideration of public services.

- (c) A tenant in fee simple with an executory limitation, gift or disposition over on failure of his issue or in any other event.
 - (d) A person entitled to a base fee, although the reversion is in the Crown and so that the exercise by him of his powers under this Act shall bind the Crown.
 - (e) A tenant for years determinable on life not holding merely under a lease at a rent.
 - (f) A tenant for the life of another not holding merely under a lease at rent.
 - (g) A tenant for his own or any other life or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate or by conditional limitation or otherwise, or to be defeated by an executory limitation, gift or disposition over, or is subject to a trust for accumulation of income for payment of debts or any other purpose.
 - (h) A tenant in tail after possibility of issue extinct.
 - (i) A person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life whether subject to expenses of management or not or until sale of the land or until forfeiture of his interest therein on bankruptcy or other event.
- (2) The powers conferred by subsection 1 may be exercised by a person entitled to the possession or to the receipt of the rents and profits of unsettled land as tenant by the curtesy and dower. Curtesy and dower.
- (3) Any of the persons empowered by subsections 1 and 2 Additional powers. to make a demise may also make,
- (a) a lease for giving effect to a contract entered into by any of his predecessors in title for making a lease which, if made by the predecessor, would have been binding on the successors in title; and

- (b) a lease for giving effect to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the settled estate; and
- (c) a lease for confirming, as far as may be, a previous lease being void or voidable; but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted under this Act, or otherwise as the case may require.

Joint action;

(4) Where two or more persons are under the same settlement or otherwise entitled in possession to concurrent estates for life, or are concurrently entitled to the possession or receipts of the rents and profits as in subsection 1 mentioned, they shall, for the purposes of this section, act concurrently.

Form of lease.

(5) Every demise made under this section shall be by deed in duplicate, and for the best rent that can reasonably be obtained, which rent shall be incident to the immediate reversion and shall be made payable half yearly or oftener.

Conditions.

(6) Such demise shall not be made without impeachment of waste and shall not authorize the cutting of any timber or felling of any trees except in the ordinary course of husbandry, and shall contain a covenant for payment of the rent and such other usual and proper covenants as the lessor thinks fit, and shall be subject to the statutory right of re-entry for non-payment of rent in *The Landlord and Tenant Act*. R.S.O. 1937, c. 117, s. 32.

Rev. Stat., c. 199.

Against whom leases shall be valid.

33.—(1) Every demise of a settled estate authorized by section 32 shall be valid against the person granting the demise and all other persons entitled to estates subsequent to his estate under or by virtue of the same settlement.

Idem.

(2) Every demise of unsettled land by a tenant by the curtesy or by a tenant in dower shall be valid against the person granting the demise and all other persons entitled to an estate subsequent to the estate of such tenant. R.S.O. 1937, c. 117, s. 33.

Provisions as to persons under disability.

34. All powers given by this Act, and all applications to the court under this Act and consents to and notifications respecting them, may be executed, made or given by, and all notices under this Act may be given to committees on behalf of mentally incompetent persons, and by or to trustees or assignees of the property of bankrupts, debtors in liquidation or insolvents, and the Official Guardian or any other guardian *ad litem* may consent to, and give notifications respecting such applications, and give all notices under this Act on behalf

of any infant or person of unsound mind not so found; but in the case of infants or mentally incompetent persons, or persons of unsound mind not so found, all consents to or notifications or notices respecting any application so given by any committee or official guardian or other guardian *ad litem* shall be subject to the approbation of the court. R.S.O. 1937, c. 117, s. 34.

35. A married woman may make or consent to or oppose any application whether she is or is not of full age. R.S.O. 1937, c. 117, s. 35. Married women.

36. Nothing in this Act shall impose any obligation on any person to make or consent to any application to the court or to exercise any power. R.S.O. 1937, c. 117, s. 36. No obligation to make or consent to application.

37. A person shall be deemed to be entitled to the possession or to the receipt of the rents and profits of an estate although his estate may be charged or encumbered, either by himself or by the settlor or otherwise, to any extent; but the estates or interests of the persons entitled to the charge or encumbrance shall not be affected by the acts of such persons unless they concur therein. R.S.O. 1937, c. 117, s. 37. Tenants for life, etc., to be deemed entitled notwithstanding encumbrances.

38. Nothing in this Act shall interfere with the exercise of any powers to authorize or grant leases conferred by any other statute. R.S.O. 1937, c. 117, s. 38. Powers conferred by other Acts.

CHAPTER 358

The Settlers' Pulpwood Protection Act**1. In this Act,**Interpre-
tation.

- (a) "company" means company, partnership or individual operating in Ontario in connection with the purchasing, trading in or holding of pulpwood or pulpwood lands by contract, lease or otherwise, or manufacturing pulpwood, paper of any kind, or other products of pulpwood;
- (b) "Minister" means Minister of Lands and Forests;
- (c) "regulations" means regulations made under this Act;
- (d) "settler" means any *bona fide* settler occupying lands under *The Public Lands Act* or engaged in agricultural pursuits involving the clearing and cultivation of land. R.S.O. 1937, c. 42, s. 1.

Rev. Stat.,
c. 309.

2.—(1) The Minister or any officer of the Department of Lands and Forests upon the instructions of the Minister may investigate the prices received and the terms and conditions with respect to the sale, disposal or transfer of pulpwood cut on settlers' lands.

Power to
investigate.

(2) The Minister may require any company or settler to furnish to him in writing and under oath such information relating to sale, transfer or purchase of pulpwood as the Minister may deem necessary for the purposes of this Act.

Furnishing
of infor-
mation.

(3) Notice may be forwarded to the company or settler by prepaid registered mail, and such information as may be required under subsection 2 shall be furnished to the Minister within the time specified in the notice. R.S.O. 1937, c. 42, s. 2.

Service of
notice.

3. Upon the recommendation of the Minister, the Lieutenant-Governor in Council may make regulations,

Regu-
lations.

- (a) governing the sale and supply to any company of pulpwood cut by any settler, or of pulpwood cut from the lands of any settler;
- (b) fixing the kinds and quantities of pulpwood which may be purchased by any company within any stated

period, having regard to the requirements of such company for such period;

- (c) fixing the prices to be paid by any company to any settler for pulpwood cut on settlers' lands and controlling the method of measuring such pulpwood; and
- (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 42, s. 3.

Penalties. **4.—**(1) Every settler who violates any of the provisions of this Act or the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$25 and not more than \$100.

Idem. (2) Every company which violates any of the provisions of this Act or the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$500 and not more than \$1,000, provided that where any servant, agent or employee of a company violates any of the provisions of this Act or the regulations, such company shall be guilty of an offence and the provisions of this subsection shall apply accordingly. R.S.O. 1937, c. 42, s. 4.

CHAPTER 359

The Sheriffs Act

1. The Lieutenant-Governor in Council may, by a commission under the Great Seal, appoint a sheriff for each county and district. R.S.O. 1937, c. 17, s. 1. Appoint-
ment.

2.—(1) The Lieutenant-Governor in Council may fix and determine the amount of the security to be furnished on behalf of every sheriff, but such amount shall not in any case be less than \$3,000. Security.

(2) The security shall be furnished in accordance with *The Public Officers Act* and any Order in Council made under the authority thereof, and within one month after the appointment of the sheriff and before he is sworn into office. How
furnished.
Rev. Stat.,
c. 311.

(3) In case the security is not furnished within such period, or within such further period as the Lieutenant-Governor in Council may prescribe, the Lieutenant-Governor in Council may revoke the appointment of the sheriff, and his appointment and commission shall be void from and after the date of the revocation. Revocation
of appoint-
ment on
failure to
furnish.

(4) The security shall not be affected nor shall the surety be released wholly or in part from the obligation assumed by reason of any change by legislative authority or otherwise in the boundaries of the county or district for which the sheriff was appointed, or by reason of any change in his duties. Changes in
boundaries
of bailiwick
not to affect
security.

(5) Any person may examine the security furnished on behalf of a sheriff and shall be entitled to take a copy thereof. Right to
examine
security.

(6) His Majesty, or any person sustaining damage by reason of the default or misconduct of a sheriff, in addition to any right of action against the sheriff, may bring and maintain an action against the surety alone, and the action shall not be barred by reason of a prior recovery by the same person upon the same security or by reason of a judgment rendered for the defendant in a prior action upon the same security or by reason of any other action being then pending upon the security at the suit of the same plaintiff or any other person for any other distinct cause of action; provided that if the plaintiff has recovered damages in an action against the sheriff for any such default or misconduct and the amount recovered or any part thereof has been paid to the plaintiff, no action shall lie Action
against
surety.

against the surety for the same cause, except for any amount so recovered and remaining unpaid.

Judgment for balance of amount of security where surety has already been held liable.

(7) If upon the trial of an action brought against a surety it appears that the plaintiff is entitled to recover, and that the amount which the surety has paid or has become liable to pay under a judgment recovered against him is not equal to the full amount of the security, the court, after deducting from the full amount the sum which the surety has paid or become liable to pay as aforesaid, shall render judgment against the surety for any sum not exceeding the balance of the sum for which he became surety.

Discharge of surety on payment of full amount.

(8) If the surety has actually and *bona fide* paid out of his own money or effects, or has become liable by virtue of a judgment recovered upon the security to pay an amount equal to the amount specified therein the security shall be deemed to be discharged and satisfied, and no other or further sum shall be recovered thereunder.

Staying of further proceedings against surety.

(9) The court in which an action on the security is pending, upon proof of such payment or liability, and at any stage of the action, may in a summary manner prevent the recovery against the surety of any further sum than that specified in the security.

Security to extend to acts, or omissions of deputy or sheriff *pro tem*.

(10) The security shall extend to the acts and omissions of the deputy of the sheriff, and, in case of a vacancy in the office of sheriff by death, resignation or otherwise, the security shall continue and be enforceable with respect to any act or omission of the deputy sheriff or of a sheriff *pro tempore* acting in pursuance of this Act or of any deputy sheriff appointed by such sheriff *pro tempore*, in pursuance of this Act. R.S.O. 1937, c. 17, s. 11.

Sheriff, etc., not to trade.

3. A sheriff or deputy sheriff shall not, directly or indirectly, keep a shop, or trade or traffic in goods, wares, or merchandise, either by wholesale or retail. R.S.O. 1937, c. 17, s. 12.

Sheriff, etc., not to purchase at sales under execution.

4. A sheriff, deputy sheriff, coroner, elisor, bailiff or constable shall not, directly or indirectly, purchase any goods or chattels, lands or tenements by him exposed to sale under legal process. R.S.O. 1937, c. 17, s. 13.

Misconduct of coroner, elisor, bailiff or constable.

5. Every coroner, elisor, bailiff or constable entrusted with the execution of any writ, warrant or process who wilfully misconducts himself in the execution of the same, or wilfully makes any false return to such writ, warrant or process, unless by the consent of the party in whose favour the same

may have issued, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$200, and to imprisonment for a term of not more than six months, and shall answer in damages to any person aggrieved by the misconduct or false return. R.S.O. 1937, c. 17, s. 14.

6. If a debtor in execution escapes out of legal custody the sheriff, bailiff, or other person having the custody of the debtor, shall be liable only to an action for the damages sustained by the person at whose suit the debtor was taken or imprisoned, and shall not be liable to any other action in consequence of his escape. R.S.O. 1937, c. 17, s. 15.

Liability of sheriff, etc., for escape.

7. A sheriff who wilfully makes any false return to any process directed to him and placed in his hands for execution, unless by consent of both parties to the same, shall be liable to forfeit his office. R.S.O. 1937, c. 17, s. 16.

Forfeiture of office for false return.

8. Where an action is brought against a sheriff and a party thereto requires it to be tried by a jury the trial shall take place in such county or district as the court or a judge may direct. R.S.O. 1937, c. 17, s. 17.

Actions against sheriffs.

9. Upon the delivery of a writ of summons at the office of a sheriff, to be served by him, he, or his deputy or clerk, shall endorse thereon the time when it was so delivered; and in case the writ is not fully and completely served within 10 days after the delivery, the plaintiff shall be entitled to receive back the same; and the sheriff, deputy sheriff or clerk shall endorse thereon the time of the delivery back; and the cost of the mileage and service of the writ by a literate person afterwards, if the person to be served was at any time during the 10 days within the county or district, shall be allowed in the taxation of costs, as if the service had been by the sheriff or his officer. R.S.O. 1937, c. 17, s. 18.

Endorsement of receipt of process; non-service; re-delivery to plaintiff; costs of service.

10. If the sheriff, being applied to, does not return the writ, after the expiration of the 10 days, the plaintiff may issue a duplicate or concurrent writ on the *praecipe* already filed, and the costs of the first or other writ not returned may be charged against and recovered from the sheriff by the plaintiff. R.S.O. 1937, c. 17, s. 19.

Failure by sheriff to redeliver.

11.—(1) Where, for the purpose of investigating or establishing some title to land, a certificate respecting executions against lands is required from a sheriff, the sheriff if so requested, shall include in one certificate any number of names in respect of which the certificates may be required in the same matter or investigation.

Certificate as to executions.

Sheriff to include certificates under Rev. Stat., c. 78.

(2) The sheriff shall, in such certificate, include all certificates of proof of claims under *The Creditors' Relief Act* which may be in his hands affecting lands.

Fees.

(3) The maximum fees payable to a sheriff in respect to such certificate shall be \$4. R.S.O. 1937, c. 17, s. 20.

Office hours.

12. Subject to rules of court the sheriff shall, except upon legal holidays and during the long vacation, keep his office open every day from ten o'clock in the forenoon until four o'clock in the afternoon, and during all that time he or his deputy or some competent person shall be present to transact the business of the office; and during the long vacation the sheriff or his deputy or clerk shall be present in his office on every day, legal holidays excepted, from ten o'clock in the forenoon until one o'clock in the afternoon, provided that the sheriffs or their respective deputies or clerks, shall only be required to be present in their offices for the transaction of business on every Saturday, not being a holiday, from ten o'clock in the forenoon until one o'clock in the afternoon, and provided also that when the office of a sheriff may be closed under this section at one o'clock in the afternoon, the sheriff or his deputy shall nevertheless, upon application made to him, transact all necessary and urgent business of his office in the same manner and to the same extent as on days upon which the office is required to be kept open until four o'clock. R.S.O. 1937, c. 17, s. 21.

Books to be kept.

13.—(1) The sheriff shall keep in his office,

- (a) process books in which shall be entered a memorandum of every process other than writs of execution or writs in the nature of writs of execution, received by him, the court out of which the same issued, the date of the receipt, the nature of the process, the names of the parties thereto, the solicitor by whom issued, what was done thereunder or therewith and the date and the nature of the return made thereto;
- (b) execution books in which shall be entered a memorandum of every writ of execution, or writ in the nature of a writ of execution received by him, the court out of which the same issued, the date of the receipt, the nature of the process, the names of the parties thereto, the solicitor by whom issued, what was done thereunder or therewith and the date and the nature of the return made thereto, or what was done thereunder or therewith;
- (c) a cash book in which shall be entered all moneys received or paid by the sheriff in his official capacity,

or in connection with his office, for any service whatever, for fees, poundage, service of process and papers, attendance at courts, moneys levied or collected under execution, or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment and the cause, matter or service in, or on account of which the same was received or paid;

(d) a separate book in which shall be entered from day to day all fees and emoluments received by him by virtue of his office, and the several amounts disbursed by him in carrying on the work of his office;

(e) such other books as the Lieutenant-Governor in Council may require. R.S.O. 1937, c. 17, s. 22.

(2) The sheriff shall procure the books mentioned in this section and the cost thereof shall be paid by the county of which he is sheriff. ^{To be paid for by county.} R.S.O. 1937, c. 17, s. 24.

14. The sheriff shall, on or before the 15th day of January in every year, make, to the Inspector of Legal Offices, a return under oath of the aggregate amount of the fees and emoluments received by him, and of his disbursements, during the previous year, up to and inclusive of the 31st day of December. ^{Return of fees to Inspector of Legal Offices.} R.S.O. 1937, c. 17, s. 23.

15. The sheriff shall quarterly and within 20 days after the expiration of each quarterly period, transmit to the Inspector of Legal Offices a just, true and faithful account, verified upon oath, of all fines, penalties, and forfeitures which he has been required to levy and make by any lawful authority, and of the receipt and application of the same, or the reason why the same have not been received and applied, and he shall pay over to the proper officer or to the person lawfully entitled to receive the same, the several sums collected by him, within 20 days next after the period within which the same have been collected, and every sheriff neglecting or refusing to transmit such quarterly account, or to pay over any money so collected by him, within the time hereby prescribed, shall be liable to the like penalty and may be sued for the same in the same manner as is provided with regard to justices of the peace neglecting or refusing to make the returns required by section 12 of *The Justices of the Peace Act*. ^{Sheriff to make quarterly returns of fines, etc., Rev. Stat., c. 192.} R.S.O. 1937, c. 17, s. 25.

16. The sheriff shall give his attendance upon the judges for the maintenance of good order in His Majesty's courts, and for the doing and executing of all other things to the office of sheriff in such case appertaining. ^{Duty of sheriff as regards sittings of courts.} R.S.O. 1937, c. 17, s. 26.

Appoint-
ment of
constables.

17. The sheriff shall have the appointment and control of the constables at the sittings of the High Court, the county court, the court of general sessions of the peace, and other courts at which the attendance of the sheriff is required. R.S.O. 1937, c. 17, s. 27; 1941, c. 54, s. 1.

Fees of
sheriff when
acting under
order of
court.

18. Where a sheriff is directed by the court to perform any service or do any act for which no fee is provided the sheriff may be allowed such fee as the court may think fit, and it shall be payable as the court may direct. R.S.O. 1937, c. 17, s. 28.

Demanding
fees on
executions
in advance.

19. The sheriff may at the time of the delivery demand from any person delivering a process or attachment to him to be executed, the fees allowed to him by the tariff for receiving the writ or order and for warrant and return, and a reasonable sum for mileage and the fees and mileage so paid shall, if afterwards collected from the debtor, be repaid by the sheriff to the person who issued such process or attachment. R.S.O. 1937, c. 17, s. 29.

Actions for
fees.

20.—(1) After the expiration of one month from the service of his bill of costs, fees and expenses against a solicitor, the sheriff may serve the solicitor with a notice of an application to the Supreme Court or a judge thereof, or to a judge of a county or district court, returnable not earlier than eight days from the day of service, for payment of the amount of the bill, and the amount claimed shall be stated in the notice.

Proceedings
on return of
notice.

(2) On the return of the notice, the court or judge may, without reference, direct the payment to the sheriff of the amount of his demand, or of any less amount, either without costs, or with costs to be fixed by an order or to be taxed; or the court or judge may order the bill and the demand thereon to be taxed by the proper officer, and may direct that the officer shall tax to the party entitled thereto his costs of the reference, and may also direct that the sheriff and the solicitor shall respectively pay what may be found due to the other upon the conclusion of the reference and taxation; and the court or judge making the reference shall restrain the bringing of any action pending the reference, and in case the order of reference does not make provision in this behalf, the officer named in the order of reference may, in his discretion, having regard to the matters in dispute between the parties and occasioning the costs, tax the costs of the order and reference, or any part thereof, in favour of either party, or may disallow any part thereof.

Execution
for amount
payable.

(3) At the expiration of eight days from the date of the order or of the certificate of the taxing officer, as the case may

be, the party entitled to payment may sue out a writ of execution for the amount ordered or certified to be payable to him. R.S.O. 1937, c. 17, s. 30.

21.—(1) If the sheriff dies, or his resignation is accepted, or he is removed from office, the deputy sheriff shall continue the office of sheriff and execute the same and all things appertaining thereto in the name of the sheriff so dying, resigning or removed, until another sheriff has been appointed and sworn into office, and the deputy sheriff shall be answerable for the execution of the office during such interval as the sheriff would by law have been, if he had been living or had continued in office, and the security given to the sheriff by the deputy sheriff, and his pledges, as well as the security furnished on behalf of the sheriff, shall remain and be a security to His Majesty and to all persons whomsoever for the performance by the deputy sheriff of the duties of the office during such interval.

Deputy sheriff to continue office of sheriff in case of death or resignation.

(2) If there is no deputy sheriff, the Crown attorney for the county or district, as the case may be, shall be the sheriff *pro tempore* until another person is appointed sheriff, and the Crown attorney on becoming sheriff *pro tempore* may appoint a deputy sheriff, and shall do and perform every other act, matter or thing necessary for the execution of the office.

Where there is no deputy sheriff.

(3) During such interval the sheriff *pro tempore* shall be answerable for the execution of the office, as the sheriff would by law have been if he had been living or had continued in office, and any security given by or furnished on behalf of the sheriff furnished on behalf of a sheriff so afterwards dying, resigning or removed shall be a security to His Majesty, and to all persons whomsoever, for the performance of the duties of the office by the sheriff *pro tempore* and his deputy. R.S.O. 1937, c. 17, s. 31.

Temporary officer to be responsible.

22. All books, accounts, records, papers, writs, warrants, process, moneys, and other matters and things in the possession or under the control of a sheriff by virtue of, or appertaining to his office, shall be the property of His Majesty, and the same upon the death, resignation or removal from office of the sheriff shall, by the person in whose possession or control they may happen to be or may come, be immediately handed over to and shall be taken possession of by the successor in office of the sheriff, or such person as the Lieutenant-Governor in Council may appoint to receive the same. R.S.O. 1937, c. 17, s. 32.

All books, etc., to be the property of the Government.

No one but the succeeding sheriff to hold books, etc., on pain of fine and imprisonment.

23. No person, except the successor in office of the sheriff so dying, resigning or removed, or the person appointed by the Lieutenant-Governor in Council as aforesaid, shall take, have or hold such books, accounts, records, papers, writs, warrants, process, moneys, or other matters or things, and any person having or holding any of them shall forthwith on demand deliver over the same to the succeeding sheriff, or to the person appointed as aforesaid, and, upon default shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$50, besides costs, for every day's default, and shall also be liable to imprisonment for a term of not more than three months, unless the penalty and costs are sooner paid. R.S.O. 1937, c. 17, s. 33.

Proceedings on removal, etc., of sheriff.

24.—(1) Upon the removal of a sheriff from office or upon his resignation and the appointment of his successor, the outgoing sheriff, or, in the event of the death of a sheriff, the deputy sheriff or sheriff *pro tempore* shall forthwith make out and deliver to the incoming sheriff a true and correct list and account, under his hand, of all prisoners in his custody, and of all writs and process in his hands not wholly executed by him, with all such particulars as shall be necessary to explain to the incoming sheriff the matters intended to be transferred to him, and shall thereupon hand over and transfer to the care and custody of the incoming sheriff all such prisoners, writs and process, and all records, books and matters appertaining to the office of sheriff.

Duty of incoming sheriff.

(2) The incoming sheriff shall thereupon sign and deliver a duplicate of the list and account to the outgoing sheriff, or to the deputy sheriff, or sheriff *pro tempore*, to whom the same shall be a good and sufficient discharge for all the prisoners therein mentioned, and transferred to the incoming sheriff, and from the further charge of the execution of the writs and process mentioned therein, without any writ of discharge or other writ whatsoever, and the incoming sheriff shall thereupon stand and be fully and effectually charged with the prisoners, and with the execution and care of the writs and process mentioned in the list and account.

Penalty.

(3) If the outgoing sheriff, or the deputy sheriff or the sheriff *pro tempore* refuses or neglects to make out, sign and deliver the list and account, and to hand over the writs and process in manner aforesaid, he shall be liable to any person aggrieved for the damages and costs sustained by such neglect or refusal. R.S.O. 1937, c. 17, s. 34.

25. A sheriff, after resigning or being removed or in case of the death of a sheriff, his heirs, executors, or administrators shall, at all times, have the right, free of charge, to have access to, and to search and examine into all accounts, books, papers, writs, warrants and process of whatever kind, and all other matters and things which were in his possession before his death, resignation or removal, and which, at the time of making or requiring to make such search or examination, are in the possession or control of the succeeding sheriff, or the then sheriff of the county or district. R.S.O. 1937, c. 17, s. 35.

Sheriffs resigning, etc., may examine and inspect books, etc.

26. In case of the death, resignation or removal from office of a sheriff, or of a deputy sheriff while there is no sheriff, or of a sheriff *pro tempore*, after he has made a sale of lands, but before he has made the deed of conveyance of the same to the purchaser, and whether the sale was under an execution or for arrears of taxes the deed of conveyance shall be made to the purchaser by the sheriff, or by the deputy sheriff who is in office acting as sheriff, or by the sheriff *pro tempore*, at the time when the deed of conveyance is made. R.S.O. 1937, c. 17, s. 36.

Conveyances in case of death, etc., of sheriff who has sold lands.

27. In case of the death, resignation or removal from office of a sheriff after action brought by him as sheriff, the action may be continued in the name of his successor, to whom the benefit of all securities given to the sheriff in his official capacity shall enure. R.S.O. 1937, c. 17, s. 37.

Continuation of actions after death, etc., of sheriff.

1. *Chlorophyll a* (Chl *a*)

CHAPTER 360

The Short Forms of Conveyances Act

1. In this Act,

Interpretation.

- (a) "land" includes freehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein;
- (b) "party" and "parties" include a body politic or corporate as well as an individual. R.S.O. 1937, c. 158, s. 1.

2. Where a deed of land made according to the form set forth in Schedule A, or any other deed of land expressed to be made in pursuance of this Act or referring thereto, contains any of the forms of words contained in Column One of Schedule B and distinguished by any number therein, the deed shall have the same effect as if it contained the form of words in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the deed; but it shall not be necessary in any such deed to insert any such number. R.S.O. 1937, c. 158, s. 2.

Effect of deed made according to Schedule A and Col. 1 of Schedule B.

3.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the word "grantor" or "grantee" any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column.

Parties may substitute names for "grantor" or "grantee";

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

and feminine for masculine or plural for singular;

(3) Such parties may introduce into, or annex to, any of the forms in the first column any express exceptions from or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

and may introduce exceptions or qualifications;

(4) Such parties may add the name or other designation of any person or persons, or class or classes of persons, or any other words at the end of form two of the first column, so as thereby to extend the words thereof to the acts of any addi-

and may add names or designations.

tional person or persons, or class or classes of persons, or of all persons whomsoever, and in every such case the covenants 2, 3 and 4, or such of them as may be employed in the deed, shall be taken to extend to the acts of the person or persons, class or classes of persons so named. R.S.O. 1937, c. 158, s. 3.

Effect of
deeds failing
to take effect
under this
Act.

4. Any deed or part of a deed which fails to take effect by virtue of this Act shall nevertheless be as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1937, c. 158, s. 4.

SCHEDULE A

FORM OF DEED

This Indenture made the day of, one thousand nine hundred and, in pursuance of *The Short Forms of Conveyances Act*, between (*here insert names of parties and recitals, if any*), Witnesseth, that in consideration of now paid by the said (*grantee*) to the said (*grantor*) the receipt whereof is hereby by him acknowledged, he the said (*grantor*) doth grant unto the said (*grantee*) in fee simple (*or otherwise as the case may be*) all, etc., (*parcels*).....

(*Here insert covenants, or any other provisions*)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1937, c. 158, Sched. A.

SCHEDULE B

COLUMN ONE

COLUMN TWO

1. The said grantor covenants with the said grantee: 1. And the said grantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators and assigns, in manner following, that is to say:

2. That he has the right to convey the said lands to the said grantee notwithstanding any act of the said grantor. 2. That for and notwithstanding any act, deed, matter or thing by the said grantor done, executed, committed, or knowingly or wilfully permitted or suffered to the contrary, he, the said grantor, now hath in himself good right, full power and absolute authority to convey the said lands, and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto the said grantee, in manner aforesaid, and according to the true intent of these presents.

COLUMN ONE

COLUMN TWO

3. And that the said grantee shall have quiet possession of the said lands.

3. And that it shall be lawful for the said grantee, his heirs, executors, administrators and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess and enjoy the said lands and premises hereby conveyed, or intended so to be, with their and every of their appurtenances; and to have, receive and take the rents, issues and profits thereof, and of every part thereof to and for his and their use and benefit, without any let, suit, trouble, denial, eviction, interruption, claim or demand whatsoever of, from or by him the said grantor, or his heirs, or any person claiming or to claim, by, from, under or in trust for him, them or any of them.

4. Free from all encumbrances.

4. And that free and clear and freely and absolutely acquitted, exonerated and for ever discharged or otherwise by the said grantor or his heirs well and sufficiently saved, kept harmless and indemnified of, from and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and every other estate, title, charge, trouble and encumbrance whatsoever, made, executed, occasioned or suffered by the said grantor or his heirs, or by any person claiming, or to claim, by, from, under or in trust for him, them or any of them.

5. And the said grantor covenants with the said grantee that he will execute such further assurances of the said lands as may be requisite.

5. And the said grantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise, and agree with and to the said grantee, his heirs, executors, administrators and assigns, that he the said grantor, his heirs, executors and administrators, and all and every other person who-soever having or claiming, or who shall or may hereafter have or claim, any estate, right, title or interest whatsoever in, to, or out of the said lands and premises hereby conveyed, or intended so to be, or any of them, or any part thereof, by, from, under or in trust for him, them, or any of them, shall and will, from time to time, and at all times hereafter, upon every reasonable request, and at the costs and charges of the said grantee, his heirs, executors, administrators or assigns, make, do, execute or cause to be made, done or executed, all such further and other lawful acts, deeds, things, devices, conveyances and assurances in the law whatsoever, for the better, more perfectly, and absolutely conveying and assuring the said lands and premises hereby conveyed, or intended so to be, and every part thereof, with their appurtenances, unto the said grantee, his heirs, executors, administrators and assigns, in manner aforesaid as by the said grantee, his heirs, executors, administrators or assigns, his or their counsel in the law shall be reasonably devised, advised or required, so as no such further assurances contain or imply any further or other covenant or warranty than against the acts and deeds of the person who shall be required to make

COLUMN ONE

COLUMN TWO

or execute the same, and his heirs, executors or administrators only, and so as no person who shall be required to make or execute such assurances shall be compellable for the making or executing thereof, to go or travel from his usual place of abode.

6. And the said grantor covenants with the said grantee that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said grantee.

6. And the said grantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree with and to the said grantee, his heirs, executors, administrators and assigns, that the said grantor and his heirs shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request, costs and charges of the said grantee, his heirs, executors, administrators or assigns, or his or their solicitor, agent or counsel, at any trial or hearing in any action or otherwise, as occasion shall require, produce all and every or any deed, instrument or writing hereunder written, for the manifestation, defence and support of the estate, title and possession of the said grantee, his heirs, executors, administrators and assigns, in or to the said lands and premises hereby conveyed, or intended so to be, and at the like request, costs and charges, shall and will make and deliver, or cause to be made and delivered, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds, by the said grantee, his heirs, executors, administrators, or assigns, or such person as he or they shall for that purpose direct and appoint.

7. And the said grantor covenants with the said grantee that he has done no act to encumber the said lands.

7. And the said grantor, for himself, his heirs, executors and administrators, doth hereby covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators and assigns, that he hath not at any time heretofore made, done, committed, executed, or wilfully or knowingly suffered any act, deed, matter or thing whatsoever, whereby or by means whereof the said lands and premises hereby conveyed, or intended so to be, or any part or parcel thereof are, is or shall or may be in anywise impeached, charged, affected or encumbered in title, estate or otherwise howsoever.

8. And the said grantor releases to the said grantee all his claims upon the said lands.

8. And the said grantor hath released, remised and for ever quitted claim, and by these presents doth release, remise and for ever quit claim, unto the said grantee, his heirs, executors, administrators and assigns, all, and all manner of right, title, interest, claim and demand whatsoever, in, to and out of the said lands and premises hereby granted, or intended so to be, and every part and parcel thereof, so as that neither he nor his heirs, executors, administrators or assigns shall nor may, at any time hereafter, have claim, pretend to, challenge or demand the said lands and premises or any part thereof, in any manner howsoever, but the said grantee, his

COLUMN ONE

COLUMN TWO

heirs, executors, administrators and assigns, and the same lands and premises shall from henceforth forever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said grantor might or could have upon him in respect of the said lands, or upon the said lands.

9. And the said wife of the said grantor hereby bars her dower in the said lands. 9. And the said wife of the said grantor for and in consideration of the sum of one dollar of lawful money of Canada, to her in hand paid by the said grantee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said grantee, his heirs, executors, administrators and assigns, all her dower and right and title which, in the event of her surviving her said husband, she might or would have to dower, in, to or out of the lands and premises hereby conveyed or intended so to be.

R.S.O. 1937, c. 158, Sched. B.



CHAPTER 361

The Short Forms of Leases Act

1. Where a lease under seal, made according to the form set forth in Schedule A, or any other such lease expressed to be made in pursuance of this Act or referring thereto, contains any of the forms of words contained in Column One of Schedule B and distinguished by any number therein, the lease shall have the same effect as if it contained the form of words contained in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the lease; but it shall not be necessary in any such lease to insert any such number. R.S.O. 1937, c. 159, s. 1.

Effect of lease made according to Sched. A and Col. 1 of Sched. B.

2.—(1) Parties who use any of the forms in the first column of Schedule B, may substitute for the word “lessee” or “lessor” any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column.

Parties may substitute any name or designation;

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

and feminine for masculine or plural for singular;

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

and may introduce exceptions.

(4) Where the premises demised are of freehold tenure the covenants 2 to 9 shall be taken to be made with and the proviso 12 to apply to the heirs and assigns of the lessor, and where the premises demised are of leasehold tenure such covenants and proviso shall be taken to be made with and apply to the lessor, his executors, administrators and assigns.

Application of covenants to heirs and assigns.

(5) Where the word “lessor” occurs in the second column it shall, when the premises demised are of freehold tenure, include the heirs, executors, administrators and assigns of the lessor, and when the premises demised are of leasehold tenure it shall include the executors, administrators and assigns of

Interpretation.

the lessor, and where the word "lessee" occurs in the second column it shall include the executors, administrators and assigns of the lessee. R.S.O. 1937, c. 159, s. 2.

Effect of
leases failing
to take effect
under this
Act.

3. Any lease or part of a lease which fails to take effect by virtue of this Act shall nevertheless be as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1937, c. 159, s. 3.

Covenants to
run with
land.

4. Unless the contrary is expressly stated in the lease all covenants not to assign or sub-let without leave entered into by a lessee in any lease under this Act shall run with the land demised, and shall bind the executors, administrators and assigns of the lessee whether mentioned in the lease or not, unless it is by the terms of the lease otherwise expressly provided, and the proviso for re-entry contained in Schedule B shall, when inserted in a lease, apply to a breach of either an affirmative or negative covenant. R.S.O. 1937, c. 159, s. 4.

SCHEDULE A

FORM OF LEASE

This indenture, made the day of, one thousand nine hundred and, in pursuance of *The Short Forms of Leases Act*, between, of the first part, and, of the second part, Witnesseth, that in consideration of the rents, covenants and agreements, hereinafter reserved and contained on the part of the lessee, the lessor doth demise and lease unto the lessee, his executors, administrators and assigns all that (*here insert a description of the premises with sufficient certainty*).

To have and to hold the said demised premises for and during the term of, to be computed from the day of, one thousand nine hundred and, and from thenceforth next ensuing and fully to be complete and ended.

Yielding and paying therefor yearly and every year during the said term unto the said lessor, his (*or their*) heirs, executors, administrators, or assigns, the sum of, to be payable on the following days and times, that is to say (*on, etc.*), the first of such payments to become due and be made on the day of next, (*here insert covenants or any other provisions*). In witness whereof, etc.

R.S.O. 1937, c. 159, Sched. A.

SCHEDULE B

COLUMN ONE

COLUMN TWO

- | | |
|--|--|
| 1. The said lessee covenants with the said lessor: | 1. And the said lessee doth hereby covenant with the said lessor in the manner following, that is to say: |
| 2. To pay rent. | 2. That he, the said lessee, will, during the said term, pay unto the said lessor the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever. |
| 3. And to pay taxes, except for local improvements. | 3. And also will pay all taxes, rates, duties and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor on account thereof, except municipal taxes for local improvements or works assessed upon the property benefited thereby. |
| 4. And to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted. | 4. And also will, during the said term, well and sufficiently repair, maintain, amend and keep the said demised premises with the appurtenances in good and substantial repair, and all fixtures and things thereto belonging, or which at any time during the said term shall be erected and made by the lessor, when, where, and so often as need shall be, reasonable wear and tear and damage by fire, lightning and tempest only excepted. |
| 5. And to keep up fences. | 5. And also will, from time to time, during the said term, keep up the fences and walls of or belonging to the said premises, and make anew any parts thereof that may require to be new-made in a good and husband-like manner and at proper seasons of the year. |
| 6. And not to cut down timber. | 6. And also will not at any time during the said term hew, fell, cut down or destroy, or cause or knowingly permit or suffer to be hewed, felled, cut down or destroyed, without the consent in writing of the lessor, any timber or timber trees, except for necessary repairs, or firewood, or for the purpose of clearance as herein set forth. |
| 7. And that the said lessor may enter and view state of repair; and that the said lessee will repair according to notice in writing, reasonable wear and tear and damage by fire, lightning and tempest only excepted. | 7. And that it shall be lawful for the lessor and his agents, at all reasonable times during the said term, to enter the said demised premises to examine the condition thereof; and further, that all want of reparation that upon such view shall be found, and for the amendment of which notice in writing shall be left at the premises, the said lessee will, within three calendar months next after such notice, well and sufficiently repair and make good accordingly, reasonable wear and tear and damage by fire, lightning and tempest only excepted. |

COLUMN ONE

COLUMN TWO

8. And will not assign or sub-let without leave.

9. And that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

10. Provided, that the lessee may remove his fixtures.

11. Provided, that in the event of fire, lightning or tempest, rent shall cease until the premises are rebuilt.

12. Proviso for re-entry by the said lessor on non-payment of rent or non-performance of covenants.

8. And also that the lessee shall not, nor will during the said term, assign, transfer or set over or otherwise by any act or deed procure the said premises or any of them to be assigned, transferred, set over or sub-let unto any person or persons whomsoever without the consent in writing of the lessor first had and obtained.

9. And further, that the lessee will, at the expiration, or other sooner determination of the said term, peaceably surrender and yield up unto the said lessor the said premises hereby demised with the appurtenances, together with all the buildings, erections and fixtures erected or made by the lessor thereon, in good and substantial repair and condition, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

10. Provided, and it is hereby expressly agreed that the lessee may at or prior to the expiration of the term hereby granted, take, remove and carry away from the premises hereby demised all fixtures, fittings, plant, machinery, utensils, shelving, counters, safes or other articles upon the said premises in the nature of trade or tenants' fixtures or other articles belonging to or brought upon the said premises by the said lessee, but the lessee shall in such removal do no damage to the said premises, or shall make good any damage which he may occasion thereto.

11. Provided, and it is hereby expressly agreed, that in case the premises hereby demised or any part thereof shall, at any time during the said term, be burned down or damaged by fire, lightning or tempest so as to render the same unfit for the purposes of the said lessee, then and so often as the same shall happen, the rent hereby reserved, or a proportionate part thereof, according to the nature and extent of the injuries sustained shall abate, and all or any remedies for recovery of said rent or such proportionate part thereof shall be suspended until the said premises shall have been rebuilt or made fit for the purposes of the said lessee.

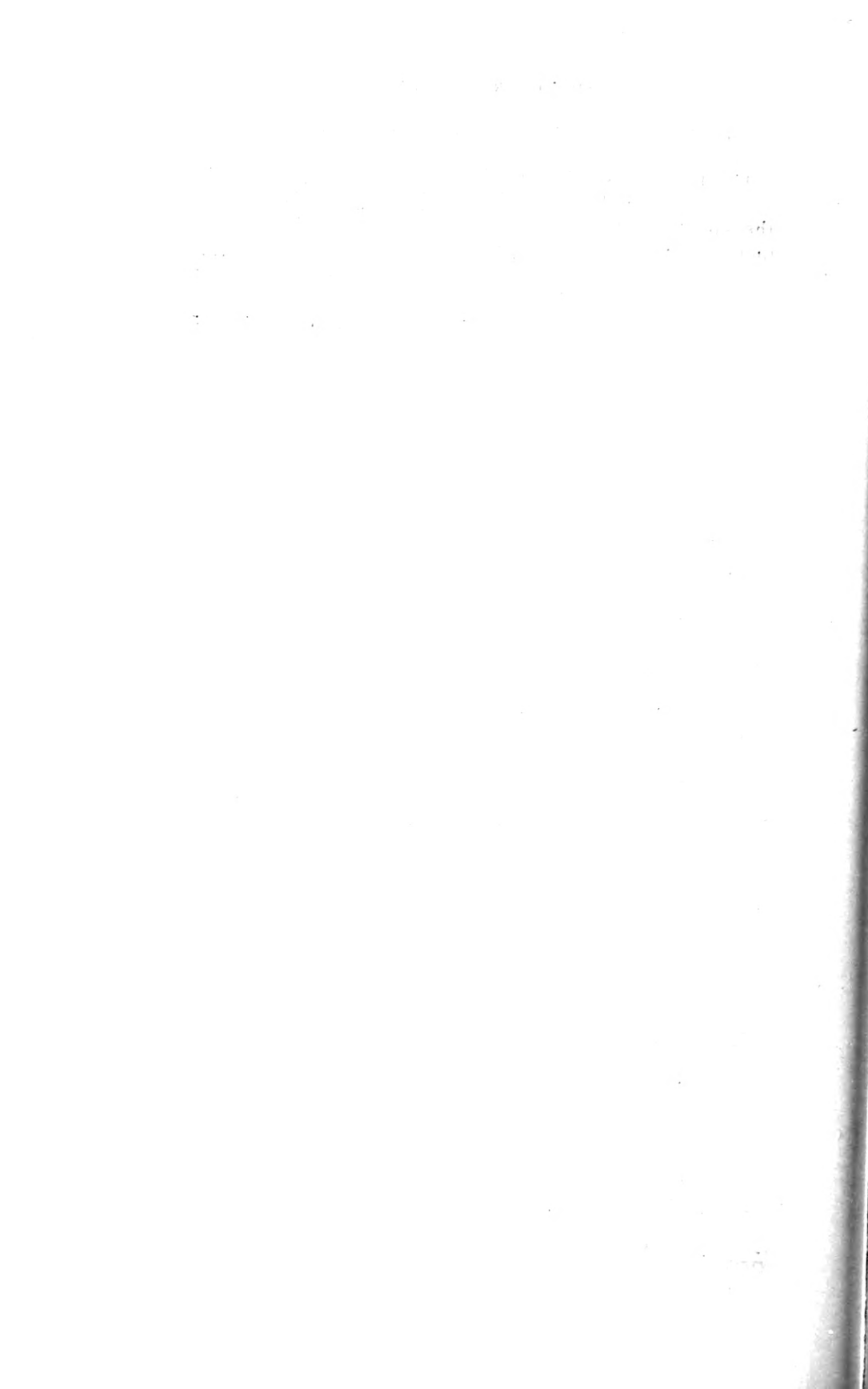
12. Provided, and it is hereby expressly agreed, that if and whenever the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid, although no formal demand shall have been made thereof, or in case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the lessee, then and in either of such cases it shall be lawful for the lessor at any time thereafter, into and upon the said demised premises or any part thereof, in the name of the whole to re-enter, and the same to have again, repossess and enjoy, as of his former estate; anything hereinafter contained to the contrary notwithstanding.

COLUMN ONE

COLUMN TWO

13. The said lessor covenants with the said lessee for quiet enjoyment. 13. And the lessor doth hereby covenant with the lessee, that he paying the rent hereby reserved and performing the covenants hereinbefore on his part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the lessor, or any other person or persons lawfully claiming by, from or under him.

R.S.O. 1937, c. 159, Sched. B.



CHAPTER 362

The Short Forms of Mortgages Act

1. In this Act,

Interpreta-
tion.

- (a) "land" includes freehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein;
- (b) "party" and "parties" include a body politic or corporate as well as an individual. R.S.O. 1937, c. 160, s. 1.

2.—(1) Where a mortgage of land, made according to the form set forth in Schedule A, or any other mortgage of land expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in Column One of Schedule B, and distinguished by any number therein, the mortgage shall have the same effect as if it contained the form of words in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the mortgage; but it shall not be necessary in any such mortgage to insert any such number.

Effect of
mortgage
made
according to
Sched. A
and Col. 1
of Sched. B.

(2) Where a blank occurs in any of the forms in Column Two the form shall be read as if it were filled in with the words which supply the place of the blank in the corresponding form in Column One. R.S.O. 1937, c. 160, s. 2.

Where blank
occurs.

3.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the word "mortgagor" or "mortgagee" any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding forms in the second column.

Parties may
substitute
names or
designations;

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

and feminine
for masculine
gender or
plural for
singular;

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column. R.S.O. 1937, c. 160, s. 3.

and may
introduce
exceptions or
qualifica-
tions.

Mortgages
not taking
effect under
this Act, how
far valid.

4. Any such mortgage, or part of such mortgage, which fails to take effect by virtue of this Act shall nevertheless be as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1937, c. 160, s. 4.

SCHEDULE A

FORM OF MORTGAGE

This Indenture, made the day of, one thousand nine hundred and, in pursuance of *The Short Forms of Mortgages Act*, between (*here insert the names of parties and recitals, if any*). Witnesseth, that in consideration of of lawful money of Canada, now paid by the said mortgagee to the said mortgagor, the receipt whereof is hereby acknowledged, the said mortgagor doth grant and mortgage unto the said mortgagee, his heirs, executors, administrators and assigns for ever, all (*parcels*).

(*Here insert provisoes, covenants or other provisions*)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1937, c. 160, Sched. A.

SCHEDULE B

COLUMN ONE

COLUMN TWO

<p>1. And the said wife of the said mortgagor hereby bars her dower in the said lands.</p>	<p>1. And the said wife of the said mortgagor for and in consideration of the sum of one dollar of lawful money of Canada, to her in hand paid by the said mortgagee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said mortgagee, his heirs, executors, administrators and assigns, all her dower, and right and title which, in the event of her surviving her said husband, she might or would have to dower, in, to, or out of the lands and premises hereby conveyed or intended so to be.</p>
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<p>2. Provided this mortgage to be void on payment of lawful money of Canada, with interest at</p>	<p>2. Provided always and these presents are upon this express condition that if the said mortgagor, his heirs, executors, administrators or assigns, or any of them, do and shall well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators or assigns the just and full sum of (<i>amount of principal money</i>) of lawful money of Canada with interest thereon at the rate of (<i>rate of interest</i>) per cent per annum on the day and time and in the manner following, that is to say (<i>terms</i>)</p>
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COLUMN ONE

COLUMN TWO

per cent as follows: *of payment of principal and interest*), without any deduction or abatement, and do and shall also pay and taxes any taxes, rates, levies, charges or assessments upon and performance of the said lands or in respect thereof no matter by whom or by what authority imposed which the said statute labour. mortgagee, his executors, administrators or assigns shall have paid or shall have been rendered liable to pay, and do and shall also pay all such other sums as the said mortgagee, his executors, administrators or assigns may be entitled to by virtue of these presents, then these presents and everything in the same shall be absolutely null and void; but nothing in this proviso or these presents shall make the mortgagor, his heirs, executors, administrators or assigns liable to pay to the mortgagee, his executors, administrators or assigns any tax, rate or charge imposed upon the mortgagee, his executors, administrators or assigns in respect of the income derived by him or them in respect of the mortgage money or in respect of the devolution of the interest of the said mortgage in the said lands or mortgage money.

3. The said mortgagor covenants with the said mortgagee: 3. And the said mortgagor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree to and with the said mortgagee, his heirs, executors, administrators and assigns, in manner following, that is to say:

4. That the mortgagor will pay the mortgage money and interest, and observe the above proviso. 4. That the said mortgagor, his heirs, executors, administrators or some or one of them shall and will well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators or assigns, the said sum of money in the above proviso mentioned, with interest for the same as aforesaid, at the days and times and in the manner above limited for payment thereof, and shall and will in everything well, faithfully and truly do, observe, perform, fulfil and keep all and singular the provisions, agreements and stipulations in the said above proviso particularly set forth, according to the true intent and meaning of these presents, and of the said above proviso.

5. That the mortgagor has a good title in fee simple to the said lands. 5. And also, that the said mortgagor, at the time of the sealing and delivery hereof, is, and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the lands, tenements, hereditaments and all and singular other the premises hereinbefore described, with their and every of their appurtenances and of and in every part and parcel thereof without any manner of trusts, reservations, limitations, provisos or conditions, except those contained in the original grant thereof from the Crown or any other matter or thing to alter, charge, change, encumber or defeat the same.

COLUMN ONE

COLUMN TWO

6. And that he has the right to convey the said lands to the said mortgagee.

6. And also, that the said mortgagor now hath in himself good right, full power and lawful and absolute authority to convey the said lands, tenements, hereditaments, and all and singular other the premises hereby conveyed or hereinbefore mentioned or intended so to be, with their and every of their appurtenances unto the said mortgagee, his heirs, executors, administrators and assigns, in manner aforesaid, and according to the true intent and meaning of these presents.

7. And that on default the mortgagee shall have quiet possession of the said lands.

7. And also, that from and after default shall happen to be made of or in the payment of the said sum of money, in the said above proviso mentioned, or the interest thereof, or any part thereof, or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents, and of the said proviso, then, and in every such case, it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the aforesaid lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with their appurtenances; without the let, suit, hindrance, interruption or denial of him the said mortgagor, his heirs, executors, administrators or assigns or any other person or persons whomsoever.

8. Free from all encumbrances.

8. And that free and clear and freely and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever due or payable upon or in respect of the said lands, tenements, hereditaments and premises or any part thereof, and of and from all former conveyances, mortgages, rights, annuities, debts, executions and recognizances, and of and from all manner of other charges or encumbrances whatsoever.

9. And that the said mortgagor will execute such further assurances of the said lands as may be requisite.

9. And also, that from and after default shall happen to be made of or in the payment of the said sum of money in the said proviso mentioned, or the interest thereof, or any part of such money or interest or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents and of the said proviso, then and in every such case the said mortgagor, his heirs, executors, administrators and assigns and all and every other person or persons whosoever having, or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with the appurtenances or any part thereof, by, from, under

COLUMN ONE

COLUMN TWO

or in trust for him the said mortgagor, his heirs, executors, administrators, or assigns shall and will, from time to time, and at all times thereafter, at the proper costs and charges of the said mortgagee, his heirs, executors, administrators and assigns, make, do, suffer and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances, and assurances in the law for the further, better and more perfectly and absolutely conveying and assuring the said lands, tenements, hereditaments and premises, with the appurtenances, unto the said mortgagee, his heirs, executors, administrators and assigns, as by the said mortgagee, his heirs, executors, administrators or assigns, or his or their counsel learned in the law shall or may be lawfully and reasonably devised, advised, or required, but so as no person who shall be required to make or execute such assurances shall be compelled, for the making or executing thereof, to go or travel from his usual place of abode.

10. And that the said mortgagor will produce the title deeds enumerated hereunder, and allow copies to be made at the expense of the mortgagee.

10. And also, that the said mortgagor, his heirs, executors, administrators, and assigns shall and will, unless prevented by fire or inevitable accident, from time to time, and at all times hereafter, at the request and proper costs and charges in the law of the said mortgagee, his heirs, executors, administrators, or assigns at any trial or hearing in any action or otherwise as occasion shall require, produce all, every or any deed, instrument or writing hereunder written for the manifestation, defence and support of the estate, title and possession of the said mortgagee, his heirs, executors, administrators and assigns, of, in, to or out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, and at the like request, costs and charges shall and will make and deliver, or cause or procure to be made and delivered, unto the said mortgagee, his heirs, executors, administrators and assigns, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds by the said mortgagee, his heirs, executors, administrators and assigns.

11. And that the said mortgagor has done no act to encumber the said lands.

11. And also that the said mortgagor hath not at any time heretofore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, or any part or parcel thereof, are, is or shall or may be in any wise impeached, charged, affected or encumbered in title, estate or otherwise howsoever.

COLUMN ONE

COLUMN TWO

12. And that the said mortgagor will insure the buildings on the said lands to the amount of not less than of lawful money of Canada.

12. And also that the said mortgagor or his heirs, executors, administrators or assigns shall and will forthwith insure unless already insured, and during the continuance of this security keep insured against loss or damage by fire, in such proportions upon each building as may be required by the said mortgagee, his heirs, executors, administrators or assigns, the messuages and buildings erected on the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, in the sum of.....of lawful money of Canada, at the least, in some insurance office to be approved of by the said mortgagee, his heirs, executors, administrators or assigns, and pay all premiums and sums of money necessary for such purpose, as the same shall become due, and will on demand assign, transfer and deliver over unto the said mortgagee, his heirs, executors, administrators or assigns, the policy or policies of insurance, receipt or receipts thereto appertaining; and if the said mortgagee, his heirs, executors, administrators or assigns, shall pay any premiums or sums of money for insurance of the said premises or any part thereof, the amount of such payment shall be added to the debt hereby secured, and shall bear interest at the same rate from the time of such payments, and shall be payable at the time appointed for the then next ensuing payment of interest on the said debt.

13. And the said mortgagor doth release to the said mortgagee all his claims upon the said lands subject to the said proviso.

13. And the said mortgagor hath released, remised and for ever quitted claim, and by these presents doth release, remise, and for ever quit claim unto the said mortgagee, his heirs, executors, administrators and assigns, all and all manner of right, title, interest, claim and demand whatsoever, of, unto and out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, and every part and parcel thereof, so as that neither the said mortgagor, his heirs, executors, administrators or assigns, shall or may at any time hereafter have, claim, pretend to, challenge or demand the said lands, tenements, hereditaments and premises or any part thereof, in any manner howsoever, subject always to the said above proviso; but the said mortgagee, his heirs, executors, administrators or assigns, and the said lands, tenements, hereditaments and premises, subject as aforesaid, shall from henceforth for ever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said mortgagor, his heirs, or assigns, might or could have upon the said mortgagee, his heirs, executors, administrators or assigns, in respect of the said lands, tenements, hereditaments and premises, or upon the said lands, tenements, hereditaments and premises.

14. Provided, that the said mortgagor on default of

14. Provided always, and it is hereby declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors, or administrators, shall make default in any

COLUMN ONE

COLUMN TWO

payment for may on notice enter on and lease or sell the said lands.	payment of the said money or interest or any part of either of the same, according to the true intent and meaning of these presents, and of the proviso in that behalf hereinbefore contained, and..... shall have thereafter elapsed without such payment being made (of which default, as also of the continuance of the said principal money and interest, or some part thereof, on this security, the production of these presents shall be conclusive evidence), it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators or assigns, after giving written notice to the said mortgagor, his heirs, executors, administrators or assigns, of his or their intention in that behalf, either personally or at his or their usual or last place of residence within this Province not less than.....previous, without any further consent or concurrence of the said mortgagor, his heirs, executors, administrators or assigns, to enter into possession of the said lands, tenements, hereditaments and premises hereby conveyed, or mentioned or intended so to be, and to receive and take the rents, issues and profits thereof, and whether in or out of possession of the same, to make any lease or leases thereof, or of any part thereof as he or they shall think fit, and also to sell and absolutely dispose of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, or any part or parts thereof, with the appurtenances, by public auction or private contract, or partly by public auction and partly by private contract, as to him or them shall seem meet, and to convey and assure the same when so sold unto the purchaser or purchasers thereof, his or their heirs, or assigns, or as he or they shall direct and appoint and to execute and do all such assurances, acts, matters and things as may be found necessary for the purposes aforesaid, and the said mortgagee, his heirs, executors, administrators or assigns shall not be responsible for any loss which may arise by reason of any such leasing or sale as aforesaid unless the same shall happen by reason of his or their wilful neglect or default; and it is hereby further agreed between the parties to these presents, that, until such sale or sales shall be made as aforesaid, the said mortgagee, his heirs, executors, administrators, or assigns shall and will stand and be possessed of and interested in the rents and profits of the said lands, tenements, hereditaments and premises, in case he or they shall take possession of the same on any default as aforesaid, and after such sale or sales shall stand and be possessed of and interested in the moneys to arise and be produced by such sale or sales, or which shall be received by the mortgagee, his heirs, executors, administrators or assigns, by reason of any insurance upon the said premises or any part thereof, upon trust in the first place to pay and satisfy the costs and charges of preparing for and making sales, leases and conveyances as aforesaid, and all other costs and charges, damages and expenses which the said mortgagee, his heirs, executors, administrators or assigns, shall bear, sustain, or be put to for taxes, rents, insurances and repairs, and all other costs and charges which may be incurred in and about the execution of any
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COLUMN ONE

COLUMN TWO

of the trusts in him or them hereby reposed, and in the next place to pay and satisfy the principal sum of money and interest hereby secured or mentioned or intended so to be or so much thereof as shall remain due and unsatisfied up to and inclusive of the day whereon the said principal sum shall be paid and satisfied; and after full payment and satisfaction of all such sums of money and interest as aforesaid upon this further trust that the said mortgagee, his heirs, executors, administrators or assigns, do and shall pay the surplus, if any, to the said mortgagor, his heirs, executors, administrators or assigns, or as he or they shall direct and appoint, and shall also, in such event, at the request, costs and charges in the law of the said mortgagor, his heirs, executors, administrators or assigns, convey and assure unto the said mortgagor, his heirs, executors, administrators or assigns, or to such person or persons as he or they shall direct and appoint, all such parts of the said lands, tenements, hereditaments and premises as shall remain unsold for the purposes aforesaid, freed and absolutely discharged of and from all estate, lien, charge and encumbrance whatsoever by the said mortgagee, his heirs, executors, administrators or assigns, in the meantime, but so as no person who shall be required to make or execute any such assurances, shall be compelled for the making thereof to go or travel from his usual place of abode: Provided always, and it is hereby further declared and agreed by and between the parties to these presents, that notwithstanding the power of sale and other the powers and provisions contained in these presents, the said mortgagee, his heirs, executors, administrators or assigns, shall have and be entitled to his right of foreclosure of the equity of redemption of the said mortgagor, his heirs, executors, administrators and assigns in the said lands, tenements, hereditaments and premises as fully and effectually as he or they might have exercised and enjoyed the same in case the power of sale, and the other former provisoes and trusts incident thereto had not been herein contained.

15. Provided
that the mortgagee
may distrain for
arrears of interest.

15. And it is further covenanted, declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors, or administrators, shall make default in payment of any part of the said interest at any of the days or times hereinbefore limited for the payment thereof, it shall and may be lawful for the said mortgagee, his heirs, executors, administrators or assigns, to distrain therefor upon the said lands, tenements, hereditaments and premises, or any part thereof, and by distress warrant, to recover by way of rent reserved, as in the case of a demise, of the said lands, tenements, hereditaments and premises, so much of such interest as shall, from time to time, be, or remain in arrear and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent.

COLUMN ONE

COLUMN TWO

16. Provided that in default of the payment of the interest hereby secured, the principal hereby secured shall become payable.

16. Provided always, and it is hereby further expressly declared and agreed by and between the parties to these presents, that if any default shall at any time happen to be made of or in the payment of the interest money hereby secured or mentioned or intended so to be, or any part thereof, then and in such case the principal money hereby secured or mentioned, or intended so to be, and every part thereof, shall forthwith become due and payable in like manner and with the like consequences and effects to all intents and purposes whatsoever, as if the time herein mentioned for payment of such principal money had fully come and expired, but that in such case the said mortgagor, his heirs, executors, administrators or assigns, shall on payment of all arrears under these presents, with lawful costs and charges in that behalf, at any time before any judgment in the premises recovered or within such time as, by the practice of the Supreme Court, relief therein could be obtained be relieved from the consequences of non-payment of so much of the money secured by these presents, or mentioned, or intended so to be, as may not then have become payable by reason of lapse of time.

17. Provided that until default of payment the mortgagor shall have quiet possession of the said lands.

17. And provided also, and it is hereby further expressly declared and agreed by and between the parties to these presents, that until default shall happen to be made of or in the payment of the said sum of money hereby secured or mentioned, or intended so to be, or the interest thereof, or any part of either of the same, or the doing, observing, performing, fulfilling or keeping some one or more of the provisions, agreements or stipulations herein set forth, contrary to the true intent and meaning of these presents, it shall and may be lawful to and for the said mortgagor, his heirs, executors, administrators and assigns, peaceably and quietly to have, hold, use, occupy, possess and enjoy the said lands, tenements, hereditaments, and premises hereby conveyed or mentioned, or intended so to be, with their and every of their appurtenances, and receive and take the rents, issues and profits thereof to his and their own use and benefit, without let, suit, hindrance, interruption, or denial of or by the said mortgagee, his heirs, executors, administrators or assigns, or of or by any other person or persons whomsoever lawfully claiming, or who shall, or may lawfully claim by, from, under or in trust for him, her, them or any or either of them.

R.S.O. 1937, c. 160, Sched. B.



CHAPTER 363

The Silicosis Act

1. In this Act,

Interpre-
tation.

- (a) "Minister" means the member of the Executive Council to whom the administration of this Act may be assigned by the Lieutenant-Governor in Council;
- (b) "regulations" means regulations made under this Act. 1950, c. 76, s. 1.

2. Subject to section 5 and the regulations, no person shall be employed in an industrial process involving a silica exposure as defined by the regulations unless he is the holder of a health certificate issued under the regulations. 1950, c. 76, s. 2.

3. The Minister may require any employee engaged in any occupation involving a silica exposure as defined by the regulations to take a medical examination at any time. 1950, c. 76, s. 3.

4. The fee prescribed by the regulations for the medical examination shall be paid by the employer in the manner prescribed by the regulations. 1950, c. 76, s. 4.

5. Where in the opinion of the Minister the circumstances warrant such action, he may exempt in whole or in part from the provisions of this Act and the regulations any industrial process involving a silica exposure. 1950, c. 76, s. 5.

6. Every person who contravenes any provision of this Act or the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$100. 1950, c. 76, s. 6.

7.—(1) The Minister, with the approval of the Lieutenant-Governor in Council, may make regulations,

- (a) defining silica exposure and prescribing medical examinations of employees engaged in industrial processes involving silica exposure and prescribing the fees to be paid for and the form of reports to be made in connection with such examination; and

- (b) providing for the issue, renewal, suspension and cancellation of health certificates to employees engaged in industrial processes involving a silica exposure and prescribing the form thereof and the conditions of issuing and the custody and use of such certificates.

Application
of regula-
tions.

(2) The regulations may be general in their application or may be made applicable specially to any particular locality or industry. 1950, c. 76, s. 7.

CHAPTER 364

The Ski Tows Act

1. In this Act,

Interpreta-
tion.

- (a) "Minister" means Minister of Travel and Publicity or such other member of the Executive Council to whom the administration of this Act may be assigned by the Lieutenant-Governor in Council;
- (b) "regulations" means regulations made under this Act;
- (c) "ski tow" means any mechanical ski tow, mechanical ski lift or other similar device. 1948, c. 84, s. 1.

2. The Lieutenant-Governor in Council may make regu- Regulations.
lations,

- (a) governing the operation of ski tows;
- (b) requiring the operators of ski tows to file proof of financial responsibility with the Minister;
- (c) prescribing the form, terms, conditions, amount, nature and class of insurance or bond which shall be carried or provided by operators of ski tows. 1948, c. 84, s. 2.

3. Every person who operates a ski tow contrary to the Offences and
regulations shall be guilty of an offence and on summary penalties.
conviction shall be liable to a penalty of not less than \$50
and not more than \$500 or to imprisonment for a term of not
less than ten days and not more than six months, or to both
fine and imprisonment. 1948, c. 84, s. 3.

CHAPTER 365

The Slot Machines Act

1. In this Act, "slot machine" means any automatically or mechanically, or automatically and mechanically operated contrivance or device which, upon or subsequently to the insertion therein or in a slot or receptacle thereof of any money, coin, token, counter, disk, slug or other substance and upon or without the operation of any handle, lever, plunger or other attachment thereof delivers or returns or purports to deliver or return to any person, either with or without any article of merchandise or any goods, any money, premium, prize, reward, token, counter, disc, slug or anything which is capable of being exchanged for money or money's worth or which may be re-played or reinserted in such contrivance or device to again set it in operation, and includes any machine apparently designed for any such purpose, notwithstanding that the machine is for any reason incapable of being so operated but does not include,

- (a) a contrivance or device which vends goods or services at the normal price thereof upon the insertion of a coin or coins and which,
 - (i) upon failure to supply the goods or services returns such coin or coins, or
 - (ii) delivers with the goods or services a coin or coins representing the difference between the normal value of the goods or services and the value of the coin or coins inserted; or
- (b) a contrivance or device used by a cashier for facilitating the making of change. 1944, c. 57, s. 1.

2. No slot machine shall be capable of ownership or be the subject of property rights and no court of civil jurisdiction shall recognize or give effect to any alleged ownership of or property rights in any slot machine. 1944, c. 57, s. 2.

3.—(1) Any constable or other police officer may at any time without warrant enter and search in any premises or place, other than a dwelling house, in or on which he has reason to believe that a slot machine is kept or operated.

Search of
dwelling
house.

(2) Upon information on oath by a constable or other police officer that he has reasonable grounds for believing that a slot machine is kept in any dwelling house, any justice of the peace may by warrant under his hand authorize and empower the constable or other police officer to enter and search the dwelling house and every part thereof, and for that purpose to break down any door, lock or fastening, and it shall not be necessary to certify in the information the grounds for believing that a slot machine is being so kept. 1944, c. 57, s. 3.

Seizure.

4.—(1) Every constable or other police officer who finds a slot machine shall seize it and all money therein and bring it and the money before a justice of the peace who shall thereupon issue a summons addressed to the person in whose apparent possession the slot machine was at the time of the seizure, requiring him at the time and place named therein to appear before a magistrate and show cause why the slot machine should not be confiscated.

Order of
confiscation.

(2) Upon the return of the summons and,

- (a) upon hearing such representations as may be made and such evidence as he may deem proper; or
- (b) upon the default of appearance of the person summoned,

unless the magistrate is satisfied that the machine is not a slot machine, he shall order that it and all money therein be confiscated to the Crown in right of Ontario.

Disposal.

(3) Any slot machine and the money therein confiscated under this Act shall be disposed of as the Attorney-General may direct. 1944, c. 57, s. 4.

Appeal.

5. A constable or other police officer who has seized any machine pursuant to this Act or any person who claims to be the owner of a machine which a magistrate has ordered to be confiscated under this Act may appeal from the decision or order of the magistrate made with regard to the machine to the county or district court of the county or district in which the machine was seized and the provisions of *The Summary Convictions Act* relating to appeals shall apply *mutatis mutandis*. 1944, c. 57, s. 5.

Rev. Stat.,
c. 379.

CHAPTER 366

The Snow Roads and Fences Act

PART I

SNOW ROADS

1. In this Act, "vehicle" means a vehicle drawn by one or more horses or other animals or propelled by any motive power. R.S.O. 1937, c. 291, s. 1. Interpretation.

2. The council of a county may provide, by by-law, for the making of a double track during the season of sleighing in each and every year upon such leading highways within the county, whether or not county roads, as the council deems advisable. R.S.O. 1937, c. 291, s. 2. Powers of county council.

3. Where a county council has passed such a by-law, the double track shall be so made that one vehicle may pass another without being obliged to turn out when meeting. R.S.O. 1937, c. 291, s. 3. Nature of tracks.

4. Every vehicle shall travel in the right-hand track, and any person driving or propelling his vehicle in the wrong track shall leave it when he meets a vehicle entitled to use such track. R.S.O. 1937, c. 291, s. 4. Right of road.

5.—(1) A county council may also provide by by-law that pathmasters appointed by township councils shall cause the highways on which double tracks are to be made to be kept open for travel within their respective municipalities, or, if there are no such pathmasters available, may appoint roadmasters to perform that duty. Duties and powers of pathmasters or roadmasters.

(2) Such pathmasters or roadmasters shall have power to call out persons liable to perform statute labour to assist in keeping open such highways within their respective municipalities, and may give to the persons employed in so doing certificates of having performed statute labour to the amount of the days work done, and such work shall be allowed for in the next season's statute labour. Calling out persons liable to perform statute labour.

(3) The county council may also provide for the application by the township councils of so much of the commutation of statute labour fund as may be necessary for the keep- Application of commutation of statute labour.

ing open of such highways within their respective municipalities. R.S.O. 1937, c. 291, s. 5.

County acting on default by township.

6. If a township council neglects or refuses to keep such highways open for travel as provided by section 5, the county council may do so, and may impose upon the township so in default a rate sufficient for that purpose, and the rate shall be levied and collected in the manner provided by *The Assessment Act* for the collection of county rates. R.S.O. 1937, c. 291, s. 6.

Rev. Stat., c. 24.

Penalty for persons refusing to work.

7. Any person liable to perform statute labour who refuses or neglects to turn out and work under any pathmaster or roadmaster who warns him out for that purpose, under the authority of this Act, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$1 and not more than \$20. R.S.O. 1937, c. 291, ss. 7, 13.

Penalty for refusing to turn out of wrong track.

8. Any person travelling with his vehicle in the wrong track and refusing or neglecting to leave the track when met by a person who is rightfully travelling therein with his vehicle shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$1 and not more than \$20. R.S.O. 1937, c. 291, ss. 8, 13.

How Act enforceable in townships in districts.

9. All the rights and powers conferred by this Act upon councils of counties may be exercised by the councils of townships in districts without county organization. R.S.O. 1937, c. 291, s. 9.

PART II

SNOW FENCES

Powers of councils to require removal of fences.

10.—(1) The council of every county, township, city, town and village may pass by-laws requiring the owners or occupants of land bordering upon a public highway to take down, alter or remove any fence which causes an accumulation of snow or drift so as to impede or obstruct travel.

Making compensation therefor.

(2) The council shall make such compensation to the owners or occupants for the taking down, alteration or removal of the fence and for the construction in lieu thereof of some other description of fence, approved of by the council, as may be mutually agreed upon, and in default of agreement the compensation shall be determined by arbitration, and three fence-viewers appointed by the council shall be the arbitrators. R.S.O. 1937, c. 291, s. 10.

Power in case of neglect or refusal by owner or occupant.

11.—(1) If the owner or occupant refuses or neglects to take down, alter or remove the fence as required by the council, the council, after the expiration of two months from the time the compensation has been agreed upon or determined by

arbitration, may take down, alter or remove the fence, and may construct the fence which has been approved of by the council, and the amount of all costs and charges thereby incurred by the council, over and above the amount of compensation, may be recovered from the owner or occupant by action in any division court having jurisdiction in the locality, and the amount of the judgment, if not sooner paid, shall be placed by the clerk of the municipality upon the collector's roll against the land upon or along the boundaries of which the fence is situate, and shall be collected as other taxes.

(2) Where an occupant, other than the owner, is required to pay such sum, or any part thereof, he may deduct it, and any costs paid by him, from the rent payable by him, or may otherwise recover the same unless he has agreed with the landlord to pay it. Right of occupant to deduct amount paid from rent.

(3) The arbitrators shall examine the premises and shall, if required, hear evidence. Duties of arbitrators.

(4) The arbitrators shall be entitled to \$2 a day, which shall be paid by the corporation of the municipality if the amount of the award exceeds the amount offered by the corporation, otherwise by the owner or occupant. Fees.

(5) The award shall be filed in the office of the clerk of the municipality, and an appeal shall lie therefrom to the judge of the county or district court of the county or district. Appeal.

(6) The provisions of *The Line Fences Act* shall *mutatis mutandis* apply to the appeal. R.S.O. 1937, c. 291, s. 11. Rev. Stat., c. 209 to apply.

12.—(1) Every such council may, on or after the 15th day of November and before the 31st day of March following, enter into and upon any lands of His Majesty, or of any corporation or person, situate within the municipality and lying along any public highway in or adjoining any such municipality, and may erect and maintain snow fences thereon, subject to the payment of such damages, if any, as may be suffered by the owner or occupant of the land so entered upon, the amount thereof to be ascertained, if not mutually agreed upon, by arbitration as provided in section 10. Power to enter on lands.

(2) The snow fences so erected shall be removed on or before the 1st day of April following. R.S.O. 1937, c. 291, s. 12. Removal.

(3) When weather conditions do not permit the removal of snow fences on or before the 1st day of April, the council may by by-law extend the time during which snow fences may be maintained and the date by which they shall be removed to a date fixed by the by-law. 1948, c. 85, s. 1. Extension of time for maintenance and removal.

Penalty.

(4) Any person who hinders or interferes with the erection of snow fences under the provisions of this Act, or who takes down, removes or otherwise interferes with snow fences which have been erected hereunder shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$1 and not more than \$50. 1941, c. 55, s. 32 (1), *amended*.

CHAPTER 367

The Soldiers' Aid Commission Act

1. The commission first established by Order in Council dated the 10th day of November, 1915, "to take care of and to find employment for members of the Canadian Expeditionary Force who return to Canada during the period of the War, and to assist, advise and co-operate with The Military Hospitals Commission, and with all Provincial or local committees or organizations to attain the aforesaid objects, and to do all things which may be incidental and ancillary to the foregoing", is continued as a body corporate and politic under the name of the "Soldiers' Aid Commission", herein called the "Commission". R.S.O. 1937, c. 315, s. 1, *part, amended.* Soldiers' Aid Commission continued.
2. The Lieutenant-Governor in Council may add such persons from time to time as members of the Commission as he may deem advisable, or may appoint a member in place of any member dying or retiring or becoming incapable of acting. R.S.O. 1937, c. 315, s. 4. Adding members to Commission.
3. The members of the Commission shall serve without remuneration, but may be paid their travelling expenses and other necessary disbursements as part of the expenses of the Commission, and the receiving of such expenses and disbursements by any member of the Commission shall not render him ineligible as a member of the Assembly, nor disqualify nor render him liable to any penalty for sitting and voting therein, anything in *The Legislative Assembly Act* to the contrary notwithstanding. R.S.O. 1937, c. 315, s. 12. Services to be honorary.
Rev. Stat., c. 202.
4. The Commission may establish or arrange for the establishment of branches of the Commission in the various municipalities in the Province and appoint a supervising commissioner and such officers, clerks, servants and agents as may be deemed necessary and expedient for carrying out the work of the Commission, and the salaries, wages, fees or other remuneration payable to such officers, clerks, servants and agents, and all other costs, charges and expenses incurred by the Commission shall be payable out of such moneys as may be appropriated from time to time by the Legislature for the purposes of the Commission. R.S.O. 1937, c. 315, s. 5. Branches, office staff.

Execution
of con-
veyances.

5. A conveyance, document or other instrument executed under the hand of the chairman and the supervising commissioner and the seal of the Commission shall be deemed sufficiently executed to bind the Commission for all purposes. R.S.O. 1937, c. 315, s. 2 (1).

Powers of
Commission.

6.—(1) Notwithstanding anything in the Order in Council of the 10th day of November, 1915, the Commission may exercise the like powers with respect to, and may grant the same assistance to members of His Majesty's Imperial forces or the forces of any of the allies who, as reservists, and while resident in Canada, were called upon to serve in the Imperial forces or the forces of any of the allies, or who left Canada for the purpose of enlisting and did enlist in the Imperial forces or the forces of any of the allies to serve therein during World War I, as the Commission may grant to members of the Canadian Expeditionary Forces under the terms of the said Order in Council, and the like assistance may be granted to any person who, after enlistment in Canada for service in the said war, and before going overseas, was discharged on account of wounds, injury or disease incurred or contracted while on active service.

Extent of
powers of
Commission.

(2) Notwithstanding anything in the Order in Council of the 10th day of November, 1915, the Commission shall have and may exercise the like powers and perform the like services with respect to any of the classes of persons mentioned in subsection 1 who returned to Ontario after the said war as it may with respect to those who returned during the war. R.S.O. 1937, c. 315, s. 3.

Powers of
Commission
extended.

(3) Notwithstanding anything in the Order in Council of the 10th day of November, 1915, the Commission shall have and may exercise the like powers and may grant the same assistance to persons who served in the naval, military or air forces of Canada or the British Empire or any part or ally thereof in World War II as the Commission may grant to members of the Canadian Expeditionary Forces under the terms of the said Order in Council. 1941, c. 55, s. 33.

Real
property.

7.—(1) The Commission may buy, sell, lease, hold or otherwise deal in real property for the purposes of the Commission. R.S.O. 1937, c. 315, s. 1, *part*.

Acquiring
lands for
cemetery
purposes.

(2) The Commission may acquire lands by purchase or expropriation or otherwise for the purposes of a cemetery for the burial of persons belonging to any of the classes mentioned in section 6 and with respect to the cemetery shall possess all the powers of an owner of a cemetery under *The Cemeteries Act*. R.S.O. 1937, c. 315, s. 7.

Rev. Stat.,
c. 46.

8.—(1) The Commission has and shall be deemed to have had since the date of its establishment, power to receive, administer and dispose of gifts, devises and bequests for the benefit of persons belonging to any of the classes mentioned in section 6, or for the benefit, as a class, of the wives, widows, children and dependent relatives of any such person belonging to any of the classes mentioned in section 6, and, without limiting the generality of the foregoing, shall be deemed to include the right to receive, hold, administer and dispose of lands so devised.

Commission
authorized
to receive
and adminis-
ter gifts, etc.

(2) Where by the will of any person dying before or after the passing of this Act, a devise or bequest is made to or for the benefit of any class of persons mentioned in section 6, or for any object within the powers of the Commission, or for any like purpose, and the will does not specify the particular person, society or institution that is to receive the devise or bequest, or if the devise or bequest is or may be held to be void for uncertainty as to the persons entitled to receive the same, or as to the object to which the same may be applied, then in any such case the Commission shall be the beneficiary and shall be entitled to receive, administer and dispose of the same in such manner as the Commission may deem expedient.

Where
bequest
would
otherwise
be void for
uncertainty.

(3) Subsection 2 shall apply and take effect notwithstanding that by the terms of the will the executor or trustee thereunder is directed to distribute the devise or bequest in the discretion of the executor or trustee. R.S.O. 1937, c. 315, s. 6.

Application
of subs. 2.

9. The Commission has and shall be deemed to have had since the date of its establishment, power to grant assistance, financial or otherwise, to the widows of the classes mentioned in section 4 of *The Soldiers' Aid Commission Act, 1916*, who have remained unmarried or who have remarried and, in the opinion of the Commission, need help, and all such assistance, financial or otherwise, heretofore given by the Commission is declared to be legal and valid for all intents and purposes. R.S.O. 1937, c. 315, s. 8.

Aid to
widows.

1916, c. 3.

10. With respect to the child of any person who served with His Majesty's forces or the forces of any of the allies of His Majesty in World War I, the Commission shall have and may exercise and perform all the rights, powers and duties of a children's aid society as provided by *The Children's Protection Act*. R.S.O. 1937, c. 315, s. 9.

Powers of
Commission
as to
children of
soldiers.

Rev. Stat.,
c. 53.

11. The Commission may establish children's shelters or homes for children coming under its care by virtue of this Act and may apply any of the funds of the Commission for such purpose. R.S.O. 1937, c. 315, s. 10.

Establishing
children's
shelters.

Agreement to accept custody of child.

12. The Commission may enter into an agreement with any person who served with His Majesty's forces or the forces of any of the allies of His Majesty in World War I, or who was the wife or husband of a person so serving before the cessation of hostilities, whereby the Commission may accept the custody of any child or children of the applicant upon being satisfied that the circumstances of the applicant are such that the applicant is unable to properly maintain and care for the child or children. R.S.O. 1937, c. 315, s. 11.

Arrangements for technical instruction for incapacitated soldiers.

13. The Commission acting as a central provincial committee and a branch sub-committee of The Military Hospitals Commission, may enter into arrangements with the Department of Education, or with any educational authority or institution, for providing instruction of any kind, including technical and industrial instruction for those of the classes of persons mentioned in section 6, who, as a result of wounds, disease or other injury sustained during the period of enlistment, are unable to pursue their former calling or occupation, and for such other training, instruction and assistance as the Commission may deem advisable. R.S.O. 1937, c. 315, s. 13.

Further powers and duties may be conferred and imposed.

14. The Lieutenant-Governor in Council may confer such further powers and impose such further duties upon the Commission with respect to soldiers who returned to Ontario after World War I, with a view to securing their well-being, as may be deemed advisable. R.S.O. 1937, c. 315, s. 14.

CHAPTER 368

The Solicitors Act

1. In this Act,

Interpretation.

- (a) "rules of the Society" means rules, regulations and by-laws made by the benchers under *The Law Society Act*;

Rev. Stat. c. 200.

- (b) "Society" means The Law Society of Upper Canada. R.S.O. 1937, c. 223, s. 1.

2. Every solicitor shall be an officer of the Supreme Court, and that court or a judge thereof may exercise the same jurisdiction in respect of solicitors as a superior court or a judge thereof before the 22nd day of August, 1881, might have exercised in respect of any solicitor or attorney admitted to practise therein. R.S.O. 1937, c. 223, s. 2.

Subject to control of court.

3. The benchers of the Society may make such rules, regulations or by-laws as they deem necessary and proper touching the admission of persons, being British subjects, who may be admitted and enrolled as solicitors, and such persons and no others shall be entitled to practise as solicitors in Ontario. R.S.O. 1937, c. 223, s. 3.

Benchers may make rules as to admission, etc., of solicitors.

4.—(1) Any person who has been duly called to the Bar of Ontario and who has been in actual practice for ten years or more before filing his application for a certificate of fitness shall be entitled to such certificate without any examination and may be admitted and enrolled as a solicitor.

Admission of barristers as solicitors after 10 years at Bar.

(2) Any person who has been called to the Bar of Ontario and who has been in actual practice for five or more years but less than ten years, before filing his application for a certificate of fitness shall be entitled to such certificate on passing such examination as may be prescribed by the Society for such cases and may be admitted and enrolled as a solicitor.

Idem, after 5 years at Bar.

(3) Notice of the intention of the candidate to apply for a certificate of fitness under this section shall be in writing signed by the applicant, and shall be given by him to the secretary of the Society at least 14 days before the next meeting of convocation at which the candidate seeks admission, and the application for the certificate shall be signed by a barrister practising in the county or district in which the

Notice of application for certificate of fitness.

candidate resides, who shall certify that the candidate is in his opinion a fit and proper person to be admitted and enrolled as a solicitor.

Fees.

(4) Every such barrister, before obtaining the certificate, shall pay such fees only as are payable by a student-at-law in ordinary cases on being admitted as a solicitor. R.S.O. 1937, c. 223, s. 4.

Barristers of Quebec who have been called to the Bar of Ontario.

5. A person who has been called to the Bar of Ontario under any provision heretofore or hereafter made for the admission of practitioners in law, or students, from the Province of Quebec shall be entitled to be admitted as a solicitor upon payment of the usual fees. R.S.O. 1937, c. 223, s. 5.

PROHIBITION AGAINST PRACTISING WHEN UNQUALIFIED

Solicitors must be admitted and enrolled.

6.—(1) Unless admitted and enrolled and duly qualified to act as a solicitor, no person shall act as a solicitor in any court of civil or criminal jurisdiction or before any justice of the peace, or as such sue out any writ or process or commence, carry on or defend any action or proceeding in the name of any other person or in his own name, or hold himself out as or represent himself to be a solicitor, or practise as a solicitor, or for gain or reward act as a solicitor. R.S.O. 1937, c. 223, s. 6; 1940, c. 26, s. 1 (1).

Penalty.

(2) Every person who violates the provisions of subsection 1 shall be guilty of an offence and liable to a penalty of not more than \$100 for a first offence and not more than \$200 for a second or subsequent offence.

Recovery of penalties.
Rev. Stat.,
c. 379.

(3) The penalties imposed by this section may be recovered in the manner provided by *The Summary Convictions Act*, or upon application by the Society to a judge of the Supreme Court by originating notice.

Place of trial.

(4) Where proceedings are taken by originating notice under this section, the matter shall be heard in the county or district in which the person against whom the proceedings are taken resides.

Proceedings by originating notice.

(5) Where proceedings are taken by originating notice under this section the rules of practice of the Supreme Court shall apply provided that the judge upon finding that any person has violated the provisions of subsection 1 may in addition to ordering payment of the penalties, make an order enjoining him from practising as a solicitor, and any order made under this section may be enforced in the same manner as any other order or judgment of the Supreme Court and may be varied or discharged upon an application made by originating notice.

(6) The penalties recovered under this section shall be paid to the Treasurer of Ontario. 1940, c. 26, s. 1 (2). Penalties payable to Treasurer.

7. If any person, unless himself a party to the proceeding, commences, prosecutes or defends in his own name, or that of any other person, any action or proceeding without having been admitted and enrolled as hereinafter provided, he shall be incapable of recovering any fee, reward or disbursements on account thereof, and shall be guilty of a contempt of the court in which such proceeding was commenced, carried on or defended, and punishable accordingly. R.S.O. 1937, c. 223, s. 7. Penalty on persons practising without being admitted as solicitors.

SERVICE OF STUDENTS-AT-LAW

8. Subject to the rules of the Society, the following enactments apply to the service of students-at-law: Students-at-law.

1. A solicitor may have under contract in writing four students at one time and no more, and no solicitor shall have any student so bound after he has discontinued practice as a solicitor, and the service by a student to a solicitor under any such circumstances shall not be deemed good service under the articles. R.S.O. 1937, c. 223, s. 8, cl. (c); 1950, c. 79, s. 22 (2). Practising solicitor may have four articulated students and no more.
2. If a solicitor, before the determination of the contract of service, becomes bankrupt or takes the benefit of any Act for the relief of insolvent debtors, or has been imprisoned for 21 or more days, the Supreme Court, upon the application of the student, may order that the contract be discharged or be assigned to such person, upon such terms, and in such manner as the court may deem proper. R.S.O. 1937, c. 223, s. 8, cl. (d). Court may order articles to be discharged or assigned in certain cases.
3. If a solicitor, to whom a student has been so bound, dies before the expiration of the term for which the student became bound, or if he discontinues practice as a solicitor, or if the contract is by the consent of the parties cancelled, or if the student is legally discharged before the expiration of the term by an order of the court, the student may be bound by another contract in writing to serve as student to any other practising solicitor during the residue of the term, and due service under such subsequent contract shall be sufficient. R.S.O. 1937, c. 223, s. 8, cl. (e); 1950, c. 79, s. 22 (3). Case of death, etc., of solicitor to whom student articulated.

CONDITIONS OF ADMISSION AS SOLICITORS

Provisions
to be com-
plied with
before
admission.

9.—(1) Subject to the rules of the Society, no student shall be admitted and enrolled as a solicitor unless,

- (a) during the time specified in his contract of service he has duly served thereunder, and, except while attending the courses of lectures at the Law School and undergoing examinations as prescribed by the rules of the Society, he has been during the whole of such term of service actually employed in the proper practice of a solicitor by the solicitor to whom he has been bound at the place where such solicitor has continued to reside, during such term or with his consent by the professional agent of the solicitor in Toronto; and
- (b) he has been examined and sworn in the manner hereinafter directed; and
- (c) at least 14 days next before the first day of the term in which he seeks admission, he has left with the secretary of the Society his contract of service, and any assignment thereof and the affidavits of the execution of the same with his affidavit of due service thereunder, and a certificate of the solicitor to whom he was bound, or his Toronto agent of such due service, and in the case of a person who has been called to the Bar or taken a degree as hereinbefore mentioned, a certificate of his having been so called or taken such degree or a duly certified copy of such certificate.

Affidavits to
be delivered
to the
Society.

(2) The affidavits shall be in the form prescribed by the Society and shall be delivered by the applicant to the Society upon his application to be examined.

Where con-
tract, etc.,
cannot be
produced.

(3) If the contract of service, assignment, if any, affidavits and certificate of due service, or any of them, cannot be produced the Society, on application by a petition verified by affidavit to be left with the secretary at least 14 days before the first day of the term on which the applicant seeks admission, and on being satisfied of such fact may, in its discretion, dispense with the production of the contract, assignment, affidavits and certificate of due service, or any of them, and may, notwithstanding such non-production, grant the certificate of fitness.

Time on
military ser-
vice may be
allowed.

(4) The benchers may allow a student, as part of his term of service, any time during which he was engaged on active military service. R.S.O. 1937, c. 223, s. 9.

ADMISSION AND ENROLMENT

10. Subject to the rules of the Society,

Require-
ments,
preliminary
examination;

- (a) where the benchers require that students shall pass a preliminary examination, the term of service under articles to entitle a student to be admitted as a solicitor shall date only from the passing of such examination or his admission into the Society as a student-at-law;
- (b) no candidate for admission being a student-at-law or articulated clerk who has served under articles for the prescribed period shall be admitted or enrolled as a solicitor unless he has complied with the regulations of the Society as to the attendance at lectures and the passing of examinations. R.S.O. 1937, c. 223, s. 10.

attendance
at lectures,
examina-
tions.

11.—(1) Subject to the rules of the Society, no candidate for admission not being a student-at-law or articulated clerk who has served under articles for the prescribed period shall be admitted,

Provisions
respecting
special cases.

- (a) unless he publishes in *The Ontario Gazette* for at least two months previously to the first day of the term in which he seeks admission notice of his intention to apply for admission; nor
- (b) except in the case of a person who has been called to the Bar of Ontario, unless he, at least 14 days after the meeting of convocation, leaves with the secretary of the Society,
 - (i) in the case of a barrister, sufficient evidence to the satisfaction of the benchers of his call to the Bar and an affidavit to their satisfaction stating whether any application is made or is pending to disbar him, disqualify him for misconduct, or otherwise from practising at the Bar,
 - (ii) in the case of an attorney, solicitor or writer to the signet, sufficient evidence to the satisfaction of the benchers of his admission and an affidavit of the candidate to their satisfaction stating whether any application has been made or is pending to strike him off the roll or disqualify him for misconduct or otherwise from practising as a solicitor,
 - (iii) in every case testimonials of good character and conduct to the satisfaction of the benchers.

Date of
affidavit.

(2) The affidavit shall be made within three months of the meeting of convocation during which the application is made. R.S.O. 1937, c. 223, s. 11.

The Society
to examine
into the fit-
ness and
capacity of
candidates
for admission
as solicitors.

12. The benchers, upon proof to their satisfaction of the requirements of this Act having been complied with, shall examine and inquire by such ways and means as they think proper touching the fitness and capacity of any candidate for admission as a solicitor, and if satisfied by such examination or by the certificate of the examiners mentioned in section 39 of *The Law Society Act*, that the candidate is duly qualified, fit and competent to act as a solicitor the Society shall give a certificate under its corporate seal of his due service, and of his fitness and capacity, and of his having duly complied with the requirements of this Act, and that he is in all respects qualified to be admitted as a solicitor. R.S.O. 1937, c. 223, s. 12.

Rev. Stat.,
c. 200.

Admission
and enrol-
ment.

13.—(1) Upon production to the Supreme Court of such certificate of fitness the presiding judge shall endorse his fiat of admission upon it, and thereupon the oath of allegiance and the oath of office having been administered in open court to the person named in the certificate the court may cause him to be admitted and his name to be enrolled as a solicitor.

Certificate of
admission.

(2) A certificate of admission shall be signed by one of the registrars of the Supreme Court, and the certificate of fitness shall be filed in the proper office of the Supreme Court.

Oath of
office.

(3) The oath of office shall be as follows:

I, *A.B.*, do swear (*or solemnly affirm as the case may be*) that I will truly and honestly demean myself in the practice of a solicitor according to the best of my knowledge and ability. So help me God.

R.S.O. 1937, c. 223, s. 13.

FEE

Crown
fee.

14. The only fee payable to the Crown under this Act shall be a fee of \$5.50 for the fiat, admission, oath and certificate. R.S.O. 1937, c. 223, s. 14; 1950, c. 79, s. 22 (4).

ANNUAL CERTIFICATES

Names of
those admit-
ted to be
delivered to
Society
monthly.

15. The officer of the Supreme Court who has the custody of the roll of solicitors shall, on the first day of every month, deliver to the secretary of the Society at its office in Osgoode Hall, certified under his hand and the seal of the Supreme Court, a copy of so much of the roll as contains the names of solicitors admitted and enrolled during the preceding month. R.S.O. 1937, c. 223, s. 15.

16. The secretary shall enter all such certified copies in a book to be kept in his office for that purpose, affixing to each name a number following in consecutive order the numbers affixed to the names previously entered. R.S.O. 1937, c. 223, s. 16.

Secretary to enter certified copies of roll in a book.

17. The secretary shall, in another book to be kept in his office for that purpose, enter all the names contained in the copies so transmitted to him, alphabetically arranged, with a reference to the number of each name on the roll, and shall, annually on or before the 1st day of February, furnish to the Registrar of the Supreme Court an alphabetical list certified by him, under his hand, of all solicitors who have taken out their certificates for the current year, and shall from time to time add to the list the name of each solicitor who takes out a certificate at a subsequent period of the year, noting thereon the time when the certificate was taken out. R.S.O. 1937, c. 223, s. 17.

Secretary to furnish list of solicitors to Registrar.

18. Every practising solicitor whose name appears on the roll of solicitors shall obtain from the secretary, annually during the two weeks next preceding the last day of November, a certificate under the seal of the Society stating that he is a practising solicitor of the Supreme Court. R.S.O. 1937, c. 223, s. 18.

Annual certificate to be obtained by solicitors.

19. A certificate shall not be issued to a solicitor who is indebted to the Society for any fee payable to the Society, nor until the annual fee for each certificate prescribed by the rules of the Society is paid. R.S.O. 1937, c. 223, s. 19.

Fees to be paid before certificate issued.

20. A solicitor admitted in or after November shall not be required to take out his annual certificate before November in the year next following the year of his admission. R.S.O. 1937, c. 223, s. 20.

Certificate not required until November after admission.

21. If a solicitor omits to take out his annual certificate within the prescribed period he shall not be entitled thereto until he pays to the Society not only the prescribed certificate fee, together with any other fees which he owes to the Society, but also by way of penalty, if such certificate is not taken out before the first Monday in February, the sum of \$6, if not before the third Monday in May, the sum of \$9, and if not before the second Monday in September, the sum of \$12. R.S.O. 1937, c. 223, s. 21.

Fine for neglect to take out certificate.

22. If a solicitor, or any member of a firm of solicitors, either in his own name or in the name of any member of his firm, practises in the Supreme Court, or in a county or district

Solicitors, etc., practising without certificate to forfeit \$40.

court, or in a surrogate court without such certificate being taken out by him, and by each member of his firm, he shall forfeit the sum of \$40, which shall be paid to the Society, and may be recovered in the Supreme Court. R.S.O. 1937, c. 223, s. 22.

Further penalty for practising without a certificate.

23. If a solicitor practises in any such court without having taken out such certificate in each and every year of his practice he shall be liable to be suspended from practice by order of the Supreme Court for a period of not less than three and not more than six months, and shall continue so suspended until his certificate fee for the year in which he so practised, together with a penalty of \$40, is paid to the Society. R.S.O. 1937, c. 223, s. 23.

List by officers of court of solicitors practising during the preceding year.

24. The Registrar of the Supreme Court, and every local registrar, and deputy registrar, and every clerk of a county or district court, and every registrar of the surrogate court, when the said offices are not held by the same person, shall, during the month of January in each year make out a list of the names of solicitors who, by the papers or proceedings filed or had in his office, appear to have practised at any time during the year ending with the 31st day of December next preceding, and shall, on or before the 1st day of February in the year next after that for which the list is made up, transmit such list certified under his hand and the seal of the court to the secretary of the Society. R.S.O. 1937, c. 223, s. 24.

RIGHT TO PRACTISE, QUALIFIED

Disability of solicitors in prison or suspended.

25.—(1) A solicitor who is a prisoner in a penal or reform institution shall not during his confinement therein, nor shall a solicitor who has been suspended from practising during the period of his suspension, commence, prosecute or defend as such solicitor any action in any court nor act in any matter in bankruptcy or insolvency.

Practitioner guilty of contempt.

(2) A solicitor so practising, and any solicitor permitting or empowering him so to practise in his name, shall be guilty of a contempt of the court in which any such proceedings are taken, and shall be punishable by such court accordingly.

Not to recover fees.

(3) A solicitor shall be incapable of maintaining any action for the recovery of any fee, reward or disbursement for or in respect of any matter or thing done by him in his own name or in the name of any other solicitor while so imprisoned or suspended. R.S.O. 1937, c. 223, s. 25.

Solicitors not to act as agents of unqualified persons.

26.—(1) A solicitor shall not knowingly act as the professional agent of any person not duly qualified to act as a solicitor, or suffer his name to be used in any such agency on account

of or for the profit of an unqualified person, or send any process to such person, or do any other act to enable him to practise in any respect as a solicitor, knowing him not to be duly qualified.

(2) If complaint is made in a summary way of a contravention of this section, a judge of the Supreme Court, upon proof thereof, may order that the solicitor so offending shall be struck off the roll and disqualified from practising as a solicitor. Punishment by striking off the roll.

(3) The court may also commit such unqualified person having so practised to the common jail for any term not exceeding one year. R.S.O. 1937, c. 223, s. 26. Committal of unqualified person.

27. The Supreme Court may strike the name of any solicitor off the roll of solicitors for default by him in payment of money received by him as a solicitor. R.S.O. 1937, c. 223, s. 27. Court may strike solicitors off the roll.

28.—(1) A solicitor shall not practise in any court in Ontario either in his own name or by his partner, deputy or agent, or in the name of any other person, or otherwise directly or indirectly, while he holds or conducts any office of the Supreme Court, or of a county or district court, a surrogate court or a division court to which he is appointed by the Crown; but nothing in this section shall extend to a local master or deputy registrar of the Supreme Court or to the Official Guardian, or to an official referee, a drainage referee or an official arbitrator. R.S.O. 1937, c. 223, s. 28 (1), *amended*. Practice prohibited while holding certain offices.

(2) Every person who contravenes the provisions of this section shall be liable to a penalty of \$2,000. R.S.O. 1937, c. 223, s. 28 (2). Penalty.

29. A solicitor shall not practise in any court in Ontario while he is engaged in the business of a merchant, or connected by partnership in purchasing or vending merchandise in the way of trade as a merchant, nor until 12 months after he has ceased to be such merchant or to be so engaged or connected. R.S.O. 1937, c. 223, s. 29. Practice prohibited while engaged as a merchant.

STRIKING OFF THE ROLL FOR DEFECT IN ARTICLES

30. Except in case of fraud no person admitted and enrolled shall be struck off the roll on account of any defect in the articles of clerkship or in the filing thereof, or in his service thereunder or in his admission and enrolment, unless application for striking him off the roll is made within 12 months next after his admission and enrolment. R.S.O. 1937, c. 223, s. 30. Limitation of time for striking off roll for defect in articles.

PROCEEDINGS IF STRUCK OFF THE ROLL

Notification
of the
Society
when
solicitor
struck off
roll.

31. Where a solicitor is struck off the roll the Registrar of the Supreme Court shall certify the same under his hand and the seal of the court to the secretary of the Society, stating whether the solicitor was struck off at his own request or otherwise, and the secretary shall attach the certificate to the certified copy of the roll on which the name of the solicitor stands, and shall, in the book kept by him, make a note opposite the name of the person of his having been struck off the roll. R.S.O. 1937, c. 223, s. 31.

SOLICITORS' COSTS

Solicitors to
deliver their
bill one
month before
bringing
action for
costs.

32.—(1) No action shall be brought for the recovery of fees, charges or disbursements for business done by a solicitor as such until one month after a bill thereof, subscribed with the proper hand of the solicitor, his executor, administrator or assignee or, in the case of a partnership, by one of the partners, either with his own name, or with the name of the partnership, has been delivered to the person to be charged therewith, or sent by post to, or left for him at his office or place of abode, or has been enclosed in or accompanied by a letter subscribed in like manner, referring to such bill. R.S.O. 1937, c. 223, s. 32 (1), *amended*.

Not neces-
sary in first
instance
to prove
contents of
bill delivered.

(2) In proving compliance with this Act it shall not be necessary in the first instance to prove the contents of the bill delivered, sent or left, but it shall be sufficient to prove that a bill of fees, charges or disbursements subscribed as required by subsection 1, or enclosed in or accompanied by such letter, was so delivered, sent or left; but the other party may show that the bill so delivered, sent or left, was not such a bill as constituted a compliance with this Act.

Charges in
lump sum.

(3) A solicitor's bill of fees, charges or disbursements shall be sufficient in form if it contains a reasonable statement or description of the services rendered, with a lump sum charge therefor, together with a detailed statement of disbursements, and in any action upon or taxation of such a bill if it is deemed proper further details of the services rendered may be ordered. R.S.O. 1937, c. 223, s. 32 (2, 3).

Order for
taxation on
praecipe.

33. Where the retainer of the solicitor is not disputed, and there are no special circumstances, an order may be obtained on *praecipe* from the proper officer in the county in which the solicitor resides,

- (a) by the client, for the delivery and taxation of the solicitor's bill;
- (b) by the client, for the taxation of a bill already delivered, within one month from its delivery;

- (c) by the solicitor, for the taxation of a bill already delivered, at any time after the expiration of one month from its delivery, provided no order for its taxation has been previously made. R.S.O. 1937, c. 223, s. 33.

34.—(1) No such reference shall be directed upon an application made by the party chargeable with such bill after a verdict or judgment has been obtained, or after 12 months from the time such bill was delivered, sent or left as aforesaid, except under special circumstances to be proved to the satisfaction of the court or judge to whom the application for the reference is made.

No reference on application of party chargeable after verdict or after 12 months from delivery.

(2) Where the reference is made under subsection 1, the court or judge, in making the same, may give any special directions relative to the costs of the reference. R.S.O. 1937, c. 223, s. 34.

Directions as to costs.

35. In case either party to a reference, having due notice, refuses or neglects to attend the taxation, the officer to whom the reference is made may tax the bill *ex parte*. R.S.O. 1937, c. 223, s. 35.

When officer may tax bill *ex parte*.

36.—(1) When a client or other person obtains an order for the delivery and taxation of a solicitor's bill of fees, charges and disbursements, or a copy thereof, the bill shall be delivered within 14 days from the service of the order.

Delivery of bill and reference to taxation.

(2) The bill delivered shall stand referred to the proper officer for taxation, and on the reference the solicitor shall give credit for, and an account shall be taken of all sums of money by him received from or on account of the client, and the solicitor shall refund what, if anything, he may on such taxation appear to have been overpaid.

Credits, debits, etc., on reference.

(3) The costs of the reference shall, unless otherwise directed, be in the discretion of the officer, subject to appeal, and shall be taxed by him when and as allowed.

Costs on reference.

(4) The solicitor shall not commence or prosecute any action in respect to the matters referred pending the reference without leave of the court or a judge.

No action *pro tem*.

(5) The amount certified to be due shall be paid forthwith after confirmation of the certificate by filing, as in the case of a master's report, by the party liable to pay the same.

Amount certified.

(6) Upon payment by the client or other person of what, if anything, may appear to be due to the solicitor, or if nothing is found to be due to the solicitor, the solicitor, if required, shall

Client's papers.

deliver to the client or other person, or as he may direct, all deeds, books, papers and writings in the solicitor's possession, custody or power belonging to the client.

Contents
of order.

(7) The order shall be read as if it contained the above particulars, and shall not set forth the same, but may contain any variation therefrom and any other directions which the court or judge sees fit to make.

What order
presumed
to contain.

(8) An order for reference of a solicitor's bill for taxation shall be presumed to contain subsections 2 to 6 whether obtained on *praecipe* or otherwise, and by the solicitor, client or other person liable to pay the bill.

Reference to
be to local
taxing officer.

(9) The reference for taxation shall, unless otherwise ordered, be to the proper taxing officer for the county in which the solicitor resides. R.S.O. 1937, c. 223, s. 36.

When
actions for
costs within
the month
may be
allowed.

37. A judge of the Supreme Court or of a county or district court, on proof to his satisfaction that there is probable cause for believing that the party chargeable is about to depart from Ontario, may authorize a solicitor to commence an action for the recovery of his fees, charges or disbursements against the party chargeable therewith, although one month has not expired since the delivery of the bill. R.S.O. 1937, c. 223, s. 37.

Taxation
where a
party not
being the
principal,
pays a bill
of costs.

38.—(1) Where any person, not being chargeable as the principal party, is liable to pay or has paid any bill either to the solicitor, his assignee, or personal representative, or to the principal party entitled thereto, the person so liable to pay or paying, his assignee or personal representative, may apply to the court for an order referring to taxation as the party chargeable therewith might himself have done, and the same proceedings shall be had thereupon as if the application had been made by the party so chargeable.

What
special cir-
cumstances
may be con-
sidered in
such case.

(2) If such application is made where, under the provisions hereinbefore contained, a reference is not authorized to be made except under special circumstances, the court may take into consideration any additional special circumstances applicable to the person making it, although such circumstances might not be applicable to the party chargeable with the bill if he was the party making the application.

Order for
delivery of
a copy of
the bill.

(3) For the purpose of such reference the court may order the solicitor, his assignee or representative, to deliver to the party making the application a copy of the bill upon payment of the costs of the copy.

Taxation at
instance of
third person.

(4) When a person, other than the client, applies for taxation of a bill delivered or for the delivery of a copy thereof for the purpose of taxation, and it appears that by reason of

the conduct of the client the applicant is precluded from taxing the same, but is nevertheless entitled to an account from the client, it shall not be necessary for the applicant to bring an action for an account, but the court may, in a summary manner, refer a bill already delivered or order delivery of a copy of the bill, and refer the same for taxation, as between the applicant and the client, and may add such parties not already notified as may be necessary.

(5) The provisions of section 36, so far as they are applicable, shall apply to such taxation. Application of s. 36. R.S.O. 1937, c. 223, s. 38.

39. No bill previously taxed shall be again referred unless, When a bill may be re-taxed. under the special circumstances of the case, the court thinks fit to direct a re-taxation thereof. R.S.O. 1937, c. 223, s. 39.

40. The payment of any bill shall not preclude the court from referring it for taxation, if the application is made within 12 months after payment, and if the special circumstances of the case, in the opinion of the court, appear to require the taxation. Payment not to preclude taxation if applied for within a year. R.S.O. 1937, c. 223, s. 40.

41. The bill of a solicitor for any fees, charges or disbursements in respect of business transacted in a surrogate court, may be directed to be taxed by the proper officer of such court. Taxation of costs. R.S.O. 1937, c. 223, s. 41.

42. Where a bill is referred for taxation, the officer to whom the reference is made may request the proper officer of any other court to assist him in taxing any part of the bill, and the officer so requested shall thereupon tax the same, and shall have the same powers and may receive the same fees in respect thereof as upon a reference to him by the court of which he is an officer, and he shall return the bill, with his opinion thereon, to the officer who so requests him to tax the same. A taxing officer may require the assistance of the officer of any other court. R.S.O. 1937, c. 223, s. 42.

43. Every application to refer a bill for taxation, or for the delivery of a bill, or for the delivering up of deeds, documents and papers, shall be made *In the matter of (the solicitor)*, and upon the taxation of the bill the certificate of the officer by whom the bill is taxed, unless set aside or varied, shall be final and conclusive as to the amount thereof, and payment of the amount certified to be due and directed to be paid may be enforced according to the practice of the court in which the reference was made. How applications against solicitors to be entitled. R.S.O. 1937, c. 223, s. 43.

RULES

44. Subject to the approval of the Lieutenant-Governor in Council, the Rules Committee may make general rules or Rules Committee may make rules, etc.

regulations, other than rules relating to the admission and enrolment of solicitors, for carrying out the provisions of this Act. R.S.O. 1937, c. 223, s. 44; 1941, c. 55, s. 34.

Principles of remuneration in conveyancing matters.

45. Such rules may include rules respecting business by solicitors connected with sales, purchases, leases, mortgages, settlements and other matters of conveyancing, and may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or percentage, varying or not in different classes of business, or by a gross sum or by a fixed sum for each document prepared or perused without regard to length, or in any other mode or partly in one mode and partly in another or others, and may, as regards the amount of the remuneration, regulate the same with reference to all or any of the following among other considerations:

1. The position of the party for whom the solicitor is concerned in any business, that is whether as vendor or as purchaser, lessor or lessee, mortgagor or mortgagee, and the like.
2. The place, district and circumstances at or in which the business or part thereof is transacted.
3. The amount of the capital money or of the rent to which the business relates.
4. The skill, labour and responsibility involved therein on the part of the solicitor.
5. The number and importance of the documents prepared or perused, without regard to length. R.S.O. 1937, c. 223, s. 45.

What to be considered in taxation of costs.

46. In the absence of any general rule, and so far as any such general rules do not apply, the taxing officer, in taxing a bill for preparing and executing any instrument, shall consider not the length but the skill and labour employed and responsibility incurred in the preparation thereof. R.S.O. 1937, c. 223, s. 46.

AGREEMENTS BETWEEN SOLICITORS AND CLIENTS

Interpretation.

47. In this section and sections 48 to 65,

- (a) "client" includes a person who, as a principal or on behalf of another person, retains or employs or is about to retain or employ a solicitor, and a person who is or may be liable to pay the bill of a solicitor for any services, fees, costs, charges or disbursements;
- (b) "services" includes fees, costs, charges and disbursements. R.S.O. 1937, c. 223, s. 47.

48.—(1) Subject to sections 49 to 65 a solicitor may make an agreement in writing with his client respecting the amount and manner of payment for the whole or a part of any past or future services in respect of business done or to be done by the solicitor, either by a gross sum or by commission or percentage, or by salary or otherwise, and either at the same rate or at a greater or less rate than that at which he would otherwise be entitled to be remunerated.

Agreements between solicitors and clients as to compensation.

(2) In this section the expressions “commission” and “percentage” apply only to non-contentious business and to conveyancing.

Interpretation.

(3) This section shall apply to and include any business to which section 45 relates, whether or not any general rule under section 44 is in operation. R.S.O. 1937, c. 223, s. 48.

Application.

49. Where the agreement is made in respect of business done or to be done in any court, except a division court, the amount payable under the agreement shall not be received by the solicitor until the agreement has been examined and allowed by a taxing officer of a court having power to enforce the agreement. R.S.O. 1937, c. 223, s. 49.

Approval of agreement by taxing officer.

50. Where it appears to the taxing officer that the agreement is not fair and reasonable he may require the opinion of a court to be taken thereon. R.S.O. 1937, c. 223, s. 50.

Opinion of court on agreement.

51. The court may either reduce the amount payable under the agreement or order it to be cancelled and the costs, fees, charges and disbursements in respect of the business done to be taxed in the same manner as if the agreement had not been made. R.S.O. 1937, c. 223, s. 51.

Rejection of agreement by court.

52. Such an agreement shall not affect the amount, or any right or remedy for the recovery, of any costs recoverable from the client by any other person, or payable to the client by any other person, and any such other person may require any costs payable or recoverable by him to or from the client to be taxed in the ordinary manner, unless such person has otherwise agreed; but the client who has entered into the agreement shall not be entitled to recover from any other person under any order for the payment of any costs, which are the subject of the agreement, more than the amount payable by the client to his own solicitor under the agreement. R.S.O. 1937, c. 223, s. 52.

Agreement not to affect costs as between party and party.

53. Such an agreement shall exclude any further claim of the solicitor beyond the terms of the agreement in respect of services in relation to the conduct and completion of the

Claims for additional remuneration excluded.

business in respect of which it is made, except such as are expressly excepted by the agreement. R.S.O. 1937, c. 223, s. 53.

Agreements
relieving
solicitor
from
liability for
negligence
void.

54. A provision in any such agreement that the solicitor is not to be liable for negligence or that he is to be relieved from any responsibility to which he would otherwise be subject as such solicitor shall be wholly void. R.S.O. 1937, c. 223, s. 54.

Determina-
tion of dis-
putes under
the agree-
ment.

55. No action shall be brought upon any such agreement, but every question respecting the validity or effect of it may be examined and determined, and it may be enforced or set aside without action on the application of any person who is a party to the agreement or who is or is alleged to be liable to pay or who is or claims to be entitled to be paid the costs, fees, charges or disbursements, in respect of which the agreement is made, by the court, not being a division court, in which the business or any part of it was done or a judge thereof, or, if the business was not done in any court, by the Supreme Court. R.S.O. 1937, c. 223, s. 55.

Enforcement
of agreement.

56. Upon any such application, if it appears to the court that the agreement is in all respects fair and reasonable between the parties, it may be enforced by the court by order in such manner and subject to such conditions as to the costs of the application as the court may think fit, but if the terms of the agreement are not deemed by the court to be fair and reasonable the agreement may be declared void, and the court may order it to be cancelled and may direct the costs, fees, charges and disbursements incurred or chargeable in respect of the matters included therein to be taxed in the ordinary manner. R.S.O. 1937, c. 223, s. 56.

Reopening
of agreement.

57. Where the amount agreed under any such agreement has been paid by, or on behalf of the client or by any person chargeable with or entitled to pay the same, the Supreme Court may, upon the application of the person who has paid such amount, within 12 months after the payment thereof, if it appears to the court that the special circumstances of the case require the agreement to be reopened, reopen the same and order the costs, fees, charges and disbursements to be taxed, and may also order the whole or any part of the amount received by the solicitor to be repaid by him on such terms and conditions as to the court may seem just. R.S.O. 1937, c. 223, s. 57.

Agreements
made by
client in
fiduciary
capacity.

58. Where any such agreement is made by the client in the capacity of guardian or of trustee under a deed or will, or of committee of any person whose estate or property will be chargeable with the amount or any part of the amount payable

under the agreement, the agreement shall, before payment, be laid before the senior taxing officer at Toronto who shall examine it and may disallow any part of it or may require the direction of the court to be made thereon. R.S.O. 1937, c. 223, s. 58.

59. If the client pays the whole or any part of such amount without the previous allowance of such officer or the direction of the court he shall be liable to account to the person whose estate or property is charged with the amount paid or any part of it for the amount so charged, and the solicitor who accepts such payment may be ordered by the court to refund the amount received by him. R.S.O. 1937, c. 223, s. 59.

Client paying without approval to be liable to estate.

60. Nothing in sections 48 to 65 shall give validity to a purchase by a solicitor of the interest or any part of the interest of his client in any action or other contentious proceeding to be brought or maintained, or give validity to an agreement by which a solicitor retained or employed to prosecute any action or proceeding stipulates for payment only in the event of success in the action or proceeding, or where the amount to be paid to him is a percentage of the amount or value of the property recovered or preserved or otherwise determinable by such amount or value or dependent upon the result of the action or proceeding. R.S.O. 1937, c. 223, s. 60.

Solicitors not to purchase any interest in litigation or to make payment dependent upon success.

61. Where a solicitor who has made such an agreement and who has done anything under it dies or becomes incapable of acting before the agreement has been completely performed by him, an application may be made to any court which would have jurisdiction to examine and enforce the agreement by any person who is a party thereto, and the court may thereupon enforce or set aside the agreement so far as it may have been acted upon as if the death or incapacity had not happened, and if it deems the agreement to be in all respects fair and reasonable may order the amount in respect of the past performance of it to be ascertained by taxation, and the taxing officer, in ascertaining such amount, shall have regard, so far as may be, to the terms of the agreement, and payment of the amount found to be due may be ordered in the same manner as if the agreement had been completely performed by the solicitor. R.S.O. 1937, c. 223, s. 61.

Where solicitor dies or becomes incapable of acting after agreement.

62. If, after any such agreement has been made, the client changes his solicitor before the conclusion of the business to which the agreement relates, which he shall be at liberty to do notwithstanding the agreement, the solicitor, party to the agreement, shall be deemed to have become incapable to act

Changing solicitor after making agreement.

under it within the meaning of section 61, and upon any order being made for taxation of the amount due him in respect of the past performance of the agreement the court shall direct the taxing officer to have regard to the circumstances under which the change of solicitor took place, and upon the taxation the solicitor shall not be deemed to be entitled to the full amount of the remuneration agreed to be paid to him, unless it appears that there has been no default, negligence, improper delay or other conduct on his part affording reasonable ground to the client for the change of solicitor. R.S.O. 1937, c. 223, s. 62.

Bills under agreement not to be liable to taxation.

63. Except as otherwise provided in sections 48 to 62 and sections 64 and 65, a bill of a solicitor for the amount due under any such agreement shall not be subject to any taxation or to any provision of law respecting the signing and delivery of a bill of a solicitor. R.S.O. 1937, c. 223, s. 63.

Security may be given to solicitor for costs.

64. A solicitor may accept from his client, and a client may give to his solicitor, security for the amount to become due to the solicitor for business to be transacted by him and for interest thereon, but so that the interest is not to commence until the amount due is ascertained by agreement or by taxation. R.S.O. 1937, c. 223, s. 64.

Interest on disbursements and costs.

65. A solicitor may charge interest at the rate of five per cent per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from demand from the client, and where the same are payable by an infant or out of a fund presently available the demand may be made on the parent or guardian or the trustee or other person liable. R.S.O. 1937, c. 223, s. 65.

SOLICITORS AS MORTGAGEES, TRUSTEES, ETC.

Interpretation.

66. In sections 67 to 69 the expression "mortgage" includes any charge on any property for securing money or money's worth. R.S.O. 1937, c. 223, s. 66.

Charges, etc., where mortgage is made with solicitor.

67. Any solicitor to whom, either alone or jointly with any other person, a mortgage is made, or the firm of which the solicitor is a member, shall be entitled to receive for all business transacted and acts done by the solicitor or firm in negotiating the loan, deducing and investigating the title to the property and preparing and completing the mortgage, all the usual professional charges and remuneration that he or they would have been entitled to receive if the mortgage had been made to a person not a solicitor and the person had retained and employed the solicitor or firm to transact

such business and do such acts, and such charges and remuneration shall accordingly be recoverable from the mortgagor. R.S.O. 1937, c. 223, s. 67.

68. Any solicitor to or in whom, either alone or jointly with any other person, any mortgage is made or is vested by transfer or transmission, or the firm of which the solicitor is a member, shall be entitled to receive and recover from the person on whose behalf the same is done or to charge against the security for all business transacted and acts done by the solicitor or firm subsequent and in relation to the mortgage or to the security thereby created or the property therein comprised, all such usual professional charges and remuneration as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person not a solicitor, and the person had retained and employed the solicitor or firm to transact such business and do such acts, and accordingly the mortgage shall not be redeemed except upon payment of such charges and remuneration. R.S.O. 1937, c. 223, s. 68.

Right of solicitor with whom mortgage is made to recover costs, etc.

69. A solicitor who is a director of a trust company or of any other company, or the firm of which the solicitor is a member shall be entitled to receive for all business transacted or acts done by the solicitor or firm for the company in relation to or in connection with any matter in which the company acts as trustee, guardian, personal representative or agent, all the usual professional fees and remuneration that he or they would be entitled to receive if the solicitor had not been a director of the company, and the company had retained and employed the solicitor or firm to transact such business and do such acts, and such charges and remuneration shall accordingly be recoverable from the company, and may be charged by them as a disbursement in the matter of such trusteeship, guardianship, administration or agency. R.S.O. 1937, c. 223, s. 69.

Solicitor-director, right to charge for services to trust estate.

RIGHT TO TAX COSTS OF SALARIED SOLICITOR

70. Where the remuneration of a solicitor or counsel employed by a corporation is wholly or partly paid by salary the corporation employing the solicitor or counsel shall notwithstanding have the right to recover and collect lawful costs in all actions and proceedings in the same manner as if the solicitor or counsel were not receiving a salary where the costs are by the terms of his employment payable to the solicitor or counsel as part of his remuneration in addition to his salary. R.S.O. 1937, c. 223, s. 70.

Collection of costs where corporation solicitor or counsel receives salary.

SOLICITORS AS OFFICERS OF COURT

Saving
jurisdiction
of court.

71. Nothing in this Act shall interfere with the jurisdiction over solicitors as officers of court. R.S.O. 1937, c. 223, s. 71.

CHAPTER 369

The Spruce Pulpwood Exportation Act

1. Where lands have been granted pursuant to any special Act as a subsidy to any railway or other company in connection with the establishment of its undertaking in Ontario and by such Act the exportation from Canada of spruce pulpwood cut from such lands in an unmanufactured condition is prohibited, the Lieutenant-Governor in Council on the recommendation of the Minister of Lands and Forests and notwithstanding anything in any such Act or in any patent from the Crown of lands granted pursuant thereto, may suspend the operation of any such prohibition and may permit the exportation of spruce pulpwood cut from such lands in an unmanufactured condition for such period and upon such terms and conditions as to him may seem proper. 1940, c. 27, s. 1.

Prohibition
of export-
ation in
special
Acts may
be suspen-
ded.

2. The Lieutenant-Governor in Council may make such regulations as he may deem necessary or desirable to carry out effectively the intent and purpose of this Act, and for the efficient administration thereof. 1940, c. 27, s. 2.

Regulations.



CHAPTER 370

The Stallions Act

1. In this Act,

Interpretation.

- (a) "Board" means Stallion Enrolment Board;
- (b) "Commissioner" means Live Stock Commissioner;
- (c) "inspector" means an inspector appointed for the purposes of this Act;
- (d) "Minister" means Minister of Agriculture. 1950, c. 77, s. 1.

2.—(1) The Lieutenant-Governor in Council may appoint four persons who, with the Commissioner, shall constitute the Board. Board, composition of.

(2) The Lieutenant-Governor in Council shall designate one of the persons so appointed to be chairman of the Board. Chairman.

(3) The Commissioner shall be the executive officer and secretary of the Board. Executive officer and secretary.

(4) The Lieutenant-Governor in Council may fix the remuneration and allowance for expenses of the members of the Board. 1950, c. 77, s. 2. Remuneration.

3. The Board shall adopt an official seal and cause an impression thereof to be made on every certificate issued by it. 1950, c. 77, s. 3. Official seal.

4. The Board shall,

Duties of Board.

- (a) recommend persons whom it deems suitable for appointment as inspectors;
- (b) make such arrangements as it may deem necessary for the training of inspectors;
- (c) determine the times within the periods fixed by the regulations and the places that inspections shall be made;
- (d) wherever it deems it expedient, require any stallion to be inspected at such time and place as the Board may determine;
- (e) examine the reports of inspectors and grade and enrol such stallions as it may deem proper;

- (f) issue interim enrolment certificates or enrolment certificates to owners of enrolled stallions;
- (g) issue annually a report showing the names and addresses of the owners of enrolled stallions and containing such particulars as the Board may deem proper;
- (h) perform such other duties as the Minister may direct. 1950, c. 77, s. 4.

Inspectors.

5. The Lieutenant-Governor in Council may appoint one or more inspectors for the purpose of this Act and may fix their remuneration and allowance for expenses. 1950, c. 77, s.5.

Conditions precedent to enrolment.

6. No stallion shall be enrolled,

- (a) unless the stallion is registered in the name of the person applying for the enrolment in a stud book recognized by the Board;
- (b) unless the stallion has been inspected under this Act; and
- (c) unless the prescribed fees have been paid. 1950, c. 77, s. 6.

Refusal to enrol.

7. The Board may refuse to enrol a stallion if the Board is of opinion that the stallion is for any reason unsuitable for breeding purposes. 1950, c. 77, s. 7.

Right to protest decision of Board.

8.—(1) If the owner of a stallion is dissatisfied with the decision of the Board he may file a notice of protest against the decision with the Commissioner, whereupon the Board shall reconsider the matter and make a final decision as though the original decision had not been made.

Notice of protest to contain reasons.

(2) Every such notice of protest shall be in writing and shall set forth the owner's reasons for his dissatisfaction with the decision of the Board.

Time of filing.

(3) Every such notice of protest shall be filed within 30 days after receipt by the owner of the original decision of the Board.

Deposit.

(4) Every such notice of protest shall be accompanied by a deposit of \$25 which shall be returned to the owner if the decision is reversed or altered and shall be retained by the Board in the same manner as fees if the original decision is sustained. 1950, c. 77, s. 8.

Advertising matter;

9.—(1) Every newspaper notice, poster, handbill or other matter published or prepared for the purpose of advertising a

stallion shall state the grade of such stallion as shown on its enrolment certificate and shall also state the date of expiry of such enrolment certificate.

(2) A copy of every such notice, poster, handbill or other matter published or prepared for the purpose of advertising a stallion shall be filed with the Commissioner forthwith after it is published or prepared. 1950, c. 77, s. 9.

10. No person shall stand, travel or offer for service or sale any stallion unless the stallion is enrolled under this Act. 1950, c. 77, s. 10.

11. The person in charge of a stallion at the time of service shall produce its enrolment certificate to the person in charge of the mare if called upon to do so. 1950, c. 77, s. 11.

12. No service fee shall be collectable unless the stallion is enrolled under this Act at the time of service. 1950, c. 77, s. 12.

13. The owner of an enrolled stallion shall forthwith upon its death notify the Commissioner in writing of such death and return its enrolment certificate with such notice. 1950, c. 77, s. 13.

14. Every person who contravenes any of the provisions of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$25 and not more than \$100. 1950, c. 77, s. 14.

15. The Lieutenant-Governor in Council may make regulations,

- (a) establishing and describing grades for stallions;
- (b) dividing Ontario into two or more inspection divisions and prescribing periods for each division within which inspections shall be made on the days determined by the Board;
- (c) designating the maximum interval that may elapse between inspections of stallions;
- (d) providing for special inspections and the grading of stallions specially inspected;
- (e) prescribing the period or periods of enrolment and providing for the issue of interim enrolment certificates and enrolment certificates;

- (f) prescribing fees for inspection, enrolment and the issue of interim enrolment certificates and enrolment certificates and providing for the waiving of such fees in prescribed cases;
 - (g) providing for the payment, out of such moneys as may be appropriated by the Legislature for the purpose, of premiums to the owners of enrolled stallions or any breed or grade thereof, and defining classes of enrolled stallions that shall be eligible for premiums, and describing the terms and conditions governing the payment of such premiums;
 - (h) prescribing the form of application for enrolment, the certificate of enrolment and such other forms as may be required for the purposes of this Act;
 - (i) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1950, c. 77, s. 1.
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CHAPTER 371

The Statute of Frauds

1.—(1) Every estate or interest of freehold and every uncertain interest of, in, to or out of any messuages, lands, tenements or hereditaments shall be made or created by writing signed by the parties making or creating the same, or their agents thereunto lawfully authorized in writing, and it not so made or created shall have the force and effect of an estate at will only, and shall not be deemed or taken to have any other or greater force or effect. Writing required to create certain estates or interests.

(2) All leases and terms of years of any messuages, lands, tenements or hereditaments shall be void at law unless made by deed. R.S.O. 1937, c. 146, s. 1. Leases to be made by deed.

2. Subject to section 8 of *The Conveyancing and Law of Property Act*, no lease, estate or interest, either of freehold or term of years, or any uncertain interest of, in, to or out of any messuages, lands, tenements or hereditaments shall be assigned, granted or surrendered unless it be by deed or note in writing signed by the party so assigning, granting, or surrendering the same, or his agent thereunto lawfully authorized by writing or by act or operation of law. R.S.O. 1937, c. 146, s. 2. How leases or estates of freehold, etc., to be granted or surrendered. Rev. Stat., c. 68.

3. Sections 1 and 2 shall not apply to a lease, or an agreement for a lease, not exceeding the term of three years from the making thereof, the rent upon which, reserved to the landlord during such term, amounts to at least two-thirds of the full improved value of the thing demised. R.S.O. 1937, c. 146, s. 3. Except leases not exceeding three years, etc.

4. No action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate, or whereby to charge any person upon any special promise to answer for the debt, default or miscarriage of any other person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement upon which the action is brought, or some memorandum or note Writing required for certain contracts.

thereof is in writing and signed by the party to be charged therewith or some person thereunto by him lawfully authorized. R.S.O. 1937, c. 146, s. 4.

Limitation
as to validity
of certain
covenants or
conditions.

5. A promise, contract or agreement to pay any sum of money by way of liquidated damages or to do or suffer any other act, matter or thing based upon, arising out of, or relating to a promise, contract or agreement dealt with in section 4 shall not be of any greater validity than the last-mentioned promise, contract or agreement. R.S.O. 1937, c. 146, s. 5.

Considera-
tion for
promise to
answer for
another
need not
be in
writing.

6. No special promise made by any person to answer for the debt, default or miscarriage of another person, being in writing and signed by the party to be charged therewith, or by some other person by him thereunto lawfully authorized, shall be deemed invalid to support an action or other proceeding to charge the person by whom the promise was made by reason only that the consideration for the promise does not appear in writing, or by necessary inference from a written document. R.S.O. 1937, c. 146, s. 6.

As to rati-
fication of
promise
made during
nonage.

7. No action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy or upon any ratification after full age of any promise or simple contract made during infancy, unless the promise or ratification is made by some writing signed by the party to be charged therewith or by his agent duly authorized to make the promise or ratification. R.S.O. 1937, c. 146, s. 7.

As to repre-
sentation
regarding
the charac-
ter, credit
etc., of a
third party.

8. No action shall be brought whereby to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain money, goods or credit thereupon, unless the representation or assurance is made in writing signed by the party to be charged therewith. R.S.O. 1937, c. 146, s. 8.

Declarations
or creations
of trusts
of land to
be in writ-
ing.

9. Subject to section 10, all declarations or creations of trusts or confidences of any lands, tenements or hereditaments shall be manifested and proved by some writing signed by the party who is by law enabled to declare such trust, or by his last will in writing; or else they shall be utterly void and of no effect. R.S.O. 1937, c. 146, s. 9.

10. Where any conveyance is made of any lands or tenements by which a trust or confidence arises or results by implication or construction of law, or is transferred or extinguished by act or operation of law, then and in every such case the trust or confidence shall be of the like force and effect as it would have been if this Act had not been passed. R.S.O. 1937, c. 146, s. 10.

Exception of trusts arising, transferred, or extinguished by implication of law.

11. All grants and assignments of any trust or confidence shall likewise be in writing signed by the party granting or assigning the same, or by such last will or devise, or else shall likewise be utterly void and of no effect. R.S.O. 1937, c. 146, s. 11.

Assignments of trusts shall be in writing.



CHAPTER 372

The Statute Labour Act

EXEMPTIONS

1. No person who is a member of the naval, military or air forces of Canada, or who is called out on active service or for annual training, or who is engaged in or called to the performance of naval, military or other duty in pursuance of orders in that behalf, shall be liable to perform statute labour or to commute therefor. 1941, c. 55, s. 36 (1). Exemptions or persons in naval, military or air forces.

2. A student in attendance at an institution of learning in Ontario shall not be liable to perform statute labour or to commute therefor, nor shall a poll tax be levied against or collected from any such student. 1938, c. 37, s. 23. Students.

(NOTE.—See *Firemen's Exemption Act, Rev. Stat., c. 141.*)

POLL TAX

3.—(1) Councils of cities, towns, villages and townships may pass by-laws for levying and collecting an annual tax to be known as "poll tax" of not less than \$1 and not more than \$10 from every male inhabitant of the municipality who, Poll tax, where taxes less than poll tax.

- (a) is 21 years or over and under 60 years of age;
- (b) is not exempt from performing statute labour;
- (c) is not otherwise assessed in the municipality or who is assessed and whose taxes are less than the poll tax;
- (d) has not filed with the clerk a certificate showing that he has been assessed or performed statute labour or paid poll tax elsewhere in Ontario.

(2) Where any person is assessed and his taxes are less than the amount of the poll tax, he shall be liable to pay the poll tax only. Payment where taxes less than poll tax.

(3) Where any such male inhabitant has been employed by the same person for not less than 30 days, the employer shall pay over the amount of the tax to the collector on demand out of any wages due to the employee, and such payment shall relieve the employer from any liability to the employee for the amount so paid. R.S.O. 1937, c. 274, s. 2. Payment to collector by employer.

STATUTE LABOUR

Number of
days of
statute
labour.

4.—(1) Every person assessed upon the assessment roll of a township which has not passed a by-law abolishing statute labour shall, if his property is assessed at not more than \$300, be liable to two days statute labour; at more than \$300 but not more than \$500, three days; at more than \$500 but not more than \$700, four days; at more than \$700 but not more than \$900, five days; and for every \$300 over \$900, or any fractional part thereof over \$150, one additional day; but the council may, by a by-law operating generally and rateably, reduce or increase the number of days' labour to which all the persons, rated on the assessment roll or otherwise, shall be respectively liable so that the number of days' labour to which each person is liable shall be in proportion to the amount at which he is assessed, and in all cases both of residents and non-residents the statute labour shall be rated and charged against every separate lot or parcel according to its assessed value.

Case of parts
of lots
owned by
one person.

(2) Wherever one person is assessed for lots or parts of several lots in different parts of the township, not exceeding in the aggregate 200 acres, the said part or parts shall be rated and charged for statute labour as if the same were one lot, and the statute labour shall be rated and charged against any excess over 200 acres as if the excess were one lot.

Where
labour to be
performed.

(3) Every resident shall have the right to perform his whole statute labour in the statute labour division in which his residence is situate, unless otherwise ordered by the municipal council.

Regulations
as to per-
formance.

(4) The council may pass by-laws for regulating the manner and the divisions in which statute labour or commutation money shall be performed or expended. R.S.O. 1937, c. 274, s. 3.

Commuta-
tion of
labour.

5.—(1) The council of any township may by by-law direct that a sum not exceeding \$3 a day shall be paid as commutation of statute labour for the whole or any part of the township, in which case the amount of the commutation shall be added in a separate column in the collector's roll and shall be collected and accounted for like other taxes.

Idem.

(2) Where no such by-law has been passed, the statute labour in respect of lands of residents and non-residents shall be commuted at the rate of \$2 for each day's labour. R.S.O. 1937, c. 274, s. 4.

Labour in
township in
which poll
tax is not
levied.

6.—(1) In a township which has not passed a by-law abolishing statute labour or a by-law for levying poll tax every male inhabitant of the township who,

- (a) is 21 years or over and under 60 years of age;
- (b) is not exempt from performing statute labour;
- (c) is not otherwise assessed in the township;
- (d) has not filed with the clerk a certificate showing that he has been assessed or performed statute labour or paid poll tax elsewhere in Ontario,

shall be liable to one day of statute labour on the roads and highways in the township.

(2) Every farmer's son entered as such on the assessment roll of a township shall, if not otherwise exempted by law, be liable to perform statute labour or commute therefor as if he were not so entered. R.S.O. 1937, c. 274, s. 5. Case of farmer's son.

7. The council of every township may pass by-laws to abolish statute labour. R.S.O. 1937, c. 274, s. 6. Abolition of labour.

8.—(1) Every person liable to pay poll tax shall pay it to the collector appointed to collect it within two days after demand therefor by the collector, and in case of neglect or refusal to pay the tax, the collector may levy it by distress and sale of the goods and chattels of the defaulter, with costs of distress, and if no sufficient distress can be found, the defaulter, for his refusal or neglect to pay the tax, shall incur a penalty of \$10. Collection of poll tax.

(2) Any person liable to perform statute labour under section 6, not commuted, shall perform it when required so to do by the pathmaster or other officer of the municipality appointed for that purpose, and, in case of wilful neglect or refusal to perform the labour after six days notice requiring him to do so, shall incur a penalty of \$10. Penalty for non-performance.

(3) All sums and penalties, other than costs, recovered under this section shall be paid to the treasurer of the local municipality and shall form part of the statute labour fund thereof. R.S.O. 1937, c. 274, s. 7. Payment of penalties to treasurer.

9. A non-resident owner of unoccupied land shall not be permitted to perform statute labour in respect thereof, but the labour shall be commuted and the amount of the commutation shall be charged against every separate lot or parcel and be entered in the collector's roll, and the council shall order all sums paid on that account to be expended in the statute labour division in which the land is situate. R.S.O. 1937, c. 274, s. 8. Commutation in case of non-resident owner of unoccupied land.

If resident owner, etc., makes default commutation to be entered upon collector's roll.

10.—(1) Where an owner or tenant makes default in performing his statute labour or in payment of commutation therefor, the overseer of highways in whose division he is placed shall return him as a defaulter to the clerk of the municipality before the 15th day of August, and the clerk shall in that case enter the commutation for statute labour against the land in the collector's roll of the current or following year, and it shall be collected by the collector.

Overseer to expend the commutation money in the division.

(2) In every such case the clerk shall notify the overseer of highways who may be appointed for the division in the following year, or after it has been collected, of the amount of the commutation, and the overseer shall expend that amount upon the roads in the statute labour division where the property is situate, and shall give an order upon the treasurer of the municipality to the person performing the work. R.S.O. 1937, c. 274, s. 9.

STATUTE LABOUR IN UNINCORPORATED TOWNSHIPS, ROAD COMMISSIONERS

Meeting for election of road commissioners.

11.—(1) Twenty resident landholders,

- (a) in any unincorporated township;
- (b) in any designated part of any unincorporated township;
- (c) in any two or more contiguous unincorporated townships;
- (d) in any designated parts of two or more contiguous unincorporated townships; or
- (e) in any locality which has not been surveyed or laid out into townships,

shall have the right to have a public meeting called for the purpose of electing road commissioners. 1948, c. 86, s. 1.

Interpretation.

(2) In this section and in the following sections of this Act, "landholder" means owner, locatee, purchaser or tenant of land who is a British subject, and "resident" includes a person who resides in the township or locality for any part of a year. R.S.O. 1937, c. 274, s. 10 (2); 1945, c. 23, s. 1 (2), *amended*.

Requisition for meeting.

12.—(1) The landholders desiring the meeting to be called shall sign a requisition authorizing one of their number, who shall be named in the requisition, to call a meeting of the resident landholders of the township or townships or of the designated part or parts of the township or townships or of the locality for the purpose of electing road commissioners. R.S.O. 1937, c. 274, s. 11 (1), *amended*.

(2) Where it is proposed that the road commissioners shall have jurisdiction over two or more townships or designated parts of two or more townships, the requisition shall be signed by at least eight resident landholders in any one township or part of a township or where there are less than fifteen resident landholders in any one township or part of a township by a majority of them but the total number of resident landholders signing the requisition shall not be less than twenty and the requisition shall designate what parts of the townships are to be included. 1945, c. 23, s. 2.

Where jurisdiction extends to parts of two or more townships.

13. In case the person so named declines to call a meeting or neglects to do so for ten days after the requisition is presented to him, any three of the persons who signed the requisition may call the meeting. R.S.O. 1937, c. 274, s. 12.

Meeting in case person named fails to call it.

14. The notice calling the meeting (Form 1) shall be posted up in at least six conspicuous places and at each post office and public school house in the township, townships or locality, as the case may be, and the day named shall be at least ten days from the date of the notice. R.S.O. 1937, c. 274, s. 13; 1945, c. 23, s. 3, *amended*.

Notice of meeting.

15. The election shall take place at the time named, and the number of the commissioners to be elected shall be either three or five, as may be stated in the requisition, unless the meeting, before proceeding to an election, decides that a number different from that stated in the requisition shall be elected, but the number shall not be less than three nor more than five. R.S.O. 1937, c. 274, s. 14.

Number of commissioners.

16. In case the meeting is called by the person named in the requisition, he shall be entitled to preside at the meeting as chairman, but if he is absent, or declines to act, the landholders present may appoint another chairman, and the chairman shall act as returning officer and shall, in the event of a tie, have a casting vote, although he may have previously voted, and the landholders present shall also appoint a secretary, who shall record the proceedings. R.S.O. 1937, c. 274, s. 15.

Chairman of meeting.

17.—(1) The landholders present shall decide how the voting for commissioners shall be conducted. R.S.O. 1937, c. 274, s. 16 (1); 1941, c. 55, s. 36 (2).

Mode of voting.

(2) Every person shall be entitled to vote in the election of the road commissioners who is,

Qualification of voters.

- (a) of the full age of 21 years;
- (b) a British subject by birth or naturalization; and
- (c) a landholder in the township or townships, or part or parts thereof, or the locality, for which the election is held. R.S.O. 1937, c. 274, s. 16 (2), *amended*.

Where sufficient British subjects are not available.

(3) Where there is not a sufficient number of resident landholders who are British subjects to have a meeting called for the election of road commissioners pursuant to the requirements of this Act, the Minister of Lands and Forests, upon the application in writing of any three resident landholders in the township or locality, may in writing certify to that effect and in that case, resident landholders otherwise qualified who are and who are not British subjects may have the meeting called and vote in the election of road commissioners. R.S.O. 1937, c. 274, s. 16 (3), *amended*.

Qualification of road commissioners.

18. No person may be elected as a road commissioner unless he is a British subject and otherwise qualified to vote in the election of road commissioners and unless he has performed or commuted for the statute labour to which he is liable. R.S.O. 1937, c. 274, s. 17; 1945, s. 23, s. 4.

Record of persons voting.

19. The chairman shall, at the request of any two landholders present, direct the secretary to record the names of all persons voting and, unless the vote is by ballot, how each votes. R.S.O. 1937, c. 274, s. 18.

Objections to voters.

20.—(1) If an objection is made to the right of any person to vote at the meeting, the person shall name the property in respect of which he claims the right to vote, and the chairman shall administer to him an oath, or affirmation if he be by law permitted to affirm, according to the following form, whereupon the person shall be permitted to vote:

You swear (or *if the voter is entitled to affirm*, solemnly affirm) that you are of the age of twenty-one years, and that you are the owner, tenant, purchaser or locatee of lot _____ in the _____ concession of this township, that you are a British subject, and that you are entitled to vote at this election.

So help you God.

When oath, etc., not necessary.

(2) In the case of an election held under the authority of subsection 3 of section 17, it shall not be necessary that a person desiring to vote be required to make oath or affirm that he is a British subject, and the form set forth in subsection 1 shall be amended accordingly. R.S.O. 1937, c. 274, s. 19.

Declaration of office.

21. The commissioners elected shall take a declaration of office (Form 2) before a justice of the peace and shall hold office until their successors are elected at the meeting called

as provided in section 29 or, where no such meeting is called, until the 31st day of May in the year following that in which they were elected. 1946, c. 88, s. 1.

22. The commissioners shall meet within two weeks after their election, and shall then or as soon thereafter as may be, name the roads and parts of roads upon which statute labour is to be performed, and shall appoint the places and times at which the persons required to perform statute labour are to work. R.S.O. 1937, c. 274, s. 21.

First meeting of commissioners.

23.—(1) The commissioners shall have power to open road allowances when they have been laid down in the original surveys, and where such road allowances are either wholly or partly impracticable, to lay out roads in lieu thereof and direct the performance of statute labour thereon, and where no road allowances are laid down in the original surveys, but five per cent of the area is reserved for roads, the commissioners may lay out roads where necessary and direct the performance of statute labour accordingly.

Powers of road commissioners as to opening roads.

(2) In cases of deviations from road allowances and of roads laid out where there are no road allowances as above provided, the commissioners shall cause a plan thereof, so far as the same affects ungranted lands of the Crown, to be made by an Ontario land surveyor and shall file the plan in the Department of Lands and Forests, and the commissioners may pay the cost of preparing the plan out of any moneys received by way of commutation of statute labour.

Filing plan of roads in Department of Lands and Forests.

(3) In the case of a deviation passing over any patented improved land, the commissioners may pay to the owner of the land taken for the purpose of making the deviation the value of it as may be agreed upon between the commissioners and the owner, or in case of disagreement, as may be fixed by the judge of the district court of the district on an application made to him by the commissioners for that purpose. R.S.O. 1937, c. 274, s. 22.

Compensation for land taken for deviation.

(4) Where the value of the land taken has been agreed upon between the commissioners and the owner, the owner shall execute a conveyance of the land to His Majesty in right of Ontario and such conveyance shall be registered in the proper registry or land titles office.

Land to be vested in Crown.

(5) Where the value of the land taken has not been agreed upon between the commissioners and the owner but has been fixed by the judge of the district court of the district, the order of the judge together with a plan and description of the land signed by an Ontario land surveyor shall be registered in the

Idem.

proper registry or land titles office and thereupon the land shall be vested in His Majesty in right of Ontario. 1950, c. 78, s. 1.

Time for performance.

24. The time for the performance of statute labour shall from time to time be regulated and fixed by resolution of the commissioners. R.S.O. 1937, c. 274, s. 23.

Amount of statute labour to be performed.

25.—(1) Each owner, locatee, purchaser or tenant of land may be required to perform one day's labour for every 50 acres and one day's labour for the remainder of the acreage held by him, where the total acreage held by him divided by 50 leaves a remainder, and for the first 10 acres which he has cleared after the first 10, he may be required to perform one day's additional labour, and for every 20 acres over and above the first 10, one additional day's labour, and each householder who is not an owner, locatee, purchaser or tenant of the land may be required each year to perform one day's labour.

Idem.

(2) Any owner, locatee, purchaser or tenant of land holding less than 50 acres may be required to perform statute labour as the commissioners may direct, but not exceeding the scale provided for in subsection 1 where the land is in part cleared and not exceeding one day where no part of the land is cleared. R.S.O. 1937, c. 274, s. 24.

Statute labour in unincorporated areas.

(3) Where road commissioners have been elected for any unincorporated area the secretary-treasurer shall enter in the statute labour book the name, date of birth and place of abode of every male inhabitant thereof who,

- (a) is 21 years or over and under 60 years of age;
- (b) is not exempt from performing statute labour;
- (c) is not otherwise assessed for statute labour in the area;
- (d) has not filed with the secretary-treasurer a certificate showing that he has been assessed or performed statute labour or paid poll tax elsewhere in Ontario,

and every such male inhabitant shall be liable to one day of statute labour on the roads in the area. 1950, c. 78, s. 2.

Where land assessed for school purposes. Rev. Stat., c. 316.

(4) Where the land in an unincorporated township is assessed for school purposes under *The Public Schools Act* the commissioners may by resolution provide that the amount of statute labour to be performed shall be determined on the same basis as is prescribed in subsection 1 of section 4 in which case the provisions of subsections 1 and 2 of section 4 shall apply *mutatis mutandis*. 1945, c. 23, s. 6.

26.—(1) Each commissioner shall, during the time he is required to perform statute labour, act as overseer, and the commissioners shall arrange among themselves for overseeing the various bodies of men engaged in doing statute labour. Commissioners to oversee work. R.S.O. 1937, c. 274, s. 25 (1).

(2) A commissioner may be paid out of the commutation fund for not more than two days' labour at the rate per day fixed by resolution of the commissioners under subsection 1 of section 27 if performed by him over and above the number of days' labour he may by law be required to perform in respect of his own property. R.S.O. 1937, c. 274, s. 25 (2); 1945, c. 23, s. 7; 1950, c. 78, s. 3. Payment of commissioners.

(3) The commissioners shall have the same powers as municipal corporations have in reference to statute labour to appoint overseers and require returns to be made to them of the statute labour performed in their districts. R.S.O. 1937, c. 274, s. 25 (3). General powers.

27.—(1) Any person instead of performing the statute labour required of him may commute therefor by payment at the rate per day fixed by resolution of the commissioners which rate shall not be greater than the rate per day paid for labour by the Department of Highways, and the commissioners shall expend all commutation money upon the roads on which the labour which is commuted for should have been performed, unless in the opinion of the commissioners the money should be expended on other roads under their jurisdiction. R.S.O. 1937, c. 274, s. 26; 1945, c. 23, s. 8; 1950, c. 78, s. 4. Commutation.

(2) The statute labour in respect of unoccupied land of a non-resident owner shall in all cases be commuted. 1946, c. 88, s. 2. Unoccupied land of non-resident owner.

28.—(1) The commissioners may by resolution direct that a sum computed at the rate per day fixed by resolution of the commissioners under subsection 1 of section 27 shall be paid as commutation of statute labour for the whole of the township; provided, however, that the resolution shall not take effect until it has been submitted to and sanctioned by the majority of the landholders present at the annual meeting or at a special meeting called in the manner provided for in this Act for the election of commissioners. R.S.O. 1937, c. 274, s. 27 (1); 1945, c. 23, s. 9; 1950, c. 78, s. 5. Commutation of statute labour in townships.

(2) The name of every person liable for the payment of the commutation shall be entered in the book directed to be kept by section 33, and the commissioners shall expend all commutation moneys received on the roads upon which the labour Record of persons liable to commutation.

which is commuted for should have been performed unless in the opinion of the commissioners the money should be expended on other roads under their jurisdiction. R.S.O. 1937, c. 274, s. 27 (2).

Meeting for election of new commissioners.

29. The majority of the commissioners may call a meeting to be held at any time between the 1st day of January and the 31st day of May for the election of their successors, but in case of their failure so to do a meeting may be called in the manner hereinbefore provided for a first election. R.S.O. 1937, c. 274, s. 28; 1945, c. 23, s. 10.

Penalty for neglect to perform work.

30. Any person liable to perform statute labour under sections 11 to 37 who, after six days' notice requiring him to do the labour, wilfully neglects or refuses to perform, at the time and place named by the commissioners, the number of days' labour for which he is liable, shall incur a penalty of \$5, and in addition the amount of the commutation money as fixed by the commissioners under section 27 for each day in respect of which he makes default, the same to be paid to the secretary-treasurer and to be expended in improving the roads on which the labour should have been performed, or such other roads as, in the opinion of the commissioners, require improvement. R.S.O. 1937, c. 274, s. 29; 1945, c. 23, s. 11.

Election of chairman and appointment of secretary-treasurer.

31.—(1) The commissioners, at the first meeting after their election, shall elect one of their number as chairman to preside at meetings and shall appoint some competent person who may be one of themselves other than the chairman, as secretary-treasurer and the secretary-treasurer shall be exempt from the performance of statute labour and the commissioners may each year pay to the secretary-treasurer out of the commutation fund such amount, not exceeding \$50, as may be fixed by resolution of the commissioners. 1945, c. 23, s. 12, *part*; 1948, c. 86, s. 2.

Security.

(2) The secretary-treasurer before entering on his duties shall take a declaration of office (Form 2) before a justice of the peace, and shall give security satisfactory to the commissioners which shall be lodged for safe-keeping with the chairman. 1945, c. 23, s. 12, *part*.

Commutation money.

32. The secretary-treasurer shall receive and safely keep all commutation money and shall pay out such money in accordance with the provisions of this Act. 1945, c. 23, s. 12, *part*.

Statute labour book.

33.—(1) The secretary-treasurer shall keep a statute labour book (Form 3) and shall enter therein the name of

every person liable for the performance of statute labour or payment of the commutation and the lot or parcel of land in respect of which he is liable.

(2) Upon the performance of statute labour or payment of the commutation the secretary-treasurer shall make entry thereof in the statute labour book in the column provided for that purpose. Entry of payment or performance.

(3) Where any person who has been served with the prescribed notice as provided in section 34 does not perform his statute labour or commute therefor, the secretary-treasurer shall enter the commutation thereof in the proper column of the statute labour book against the name of the person in default. Entry of default.

(4) The statute labour book shall be available for inspection at all reasonable times by any owner or locatee of land, or householder in the area over which the commissioners have jurisdiction and by any officer or servant of the Department of Highways designated by the Minister of Highways. 1945, c. 23, s. 12, *part*. Inspection of statute labour book.

34.—(1) The secretary-treasurer shall serve each notice to perform statute labour (Form 4) or, where a resolution has been passed and sanctioned as provided by section 28, to pay the commutation thereof (Form 5) personally or by leaving it at the usual place of abode of the person to whom it is directed with a grown up person residing there or by sending it by registered post addressed to the person to whom it is directed at the post office nearest to his last known place of residence. 1945, c. 23, s. 12, *part*; 1947, c. 100, s. 1. Notice to perform statute labour.

(2) The notices shall be served not less than six days before the date on which the person liable for statute labour is required to report or to pay exclusive of that date and the date of the service or mailing as the case may be. 1945, c. 23, s. 12, *part, amended*. Time.

35.—(1) On or before the 1st day of June in the year following that in which default was made, the secretary-treasurer shall make a return (Form 6) to the sheriff of the district showing each lot or parcel of land in respect of which default has been made, the name of the owner or locatee, the amount chargeable at the date of the return and the year for which the amount in arrear was imposed. Return of arrears to sheriff.

(2) The sheriff shall enter the particulars so furnished in a book to be kept by him for that purpose. Sheriff to keep account of arrears.

Payment of arrears not to be made to secretary-treasurer after two years.

(3) The secretary-treasurer shall not receive any payments on account of such arrears after the expiration of two years from the date specified in the notice (Form 4 or 5), but in the case of payments made within such period the secretary-treasurer shall forthwith notify the sheriff thereof and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him for that purpose.

After two years all arrears to be paid to sheriff.

(4) Upon the expiration of the two year period all arrears shall be payable to the sheriff and the sheriff shall enter every payment in the book kept by him and shall return the amount paid to the secretary-treasurer.

Arrears to bear interest.

(5) All arrears shall bear interest at the rate of 10 per cent per annum. 1945, c. 23, s. 12, *part*; 1946, c. 88, s. 3, *amended*.

Sale of land by sheriff for arrears.

36.—(1) Where it appears from the entries in the book kept by the sheriff that any amount chargeable for statute labour is in arrear for three years from the 31st day of December in the year in which the amount became payable, the sheriff shall proceed to collect the amount together with the penalties provided by section 30 and interest as provided by subsection 5 of section 35 and all other lawful charges and costs by the sale of the lands in respect of which the arrears are chargeable and the procedure in relation to the sale and the provisions applicable to deeds, the redemption of lands thereafter and deeds to be given to purchasers shall be the same as nearly as possible as in the case of the sale of lands by the sheriff under section 202 of *The Assessment Act*, being Chapter 272 of the Revised Statutes of Ontario, 1937, for arrears of taxes in organized municipalities in the Provisional Judicial District of Parry Sound, but the commissioners shall not purchase such land.

Notice of adjourned sale.

(2) The sheriff shall give notice in the advertisement of an adjourned sale that if no price is offered for any land or any interest therein at the adjourned sale the land or the interest therein of the owner or person liable for the statute labour in arrear may be forfeited to the Crown and if, at the adjourned sale, no price is in fact offered, he shall forthwith notify the Minister of Lands and Forests accordingly giving a description of the land, the name of the owner or person liable for the statute labour in arrear and the amount of the arrears together with any penalties, interest, charges and costs which may be payable in respect thereof.

Forfeiture.

(3) Upon notification by the sheriff that no price has been offered for any land or any interest therein at an adjourned sale, the Minister of Lands and Forests may declare the land or the interest therein forfeited to the Crown as provided in *The Provincial Land Tax Act* in the case of land or the interest therein in respect of which the taxes imposed under that Act

Rev. Stat., c. 298.

remain unpaid for a period of two years and the provisions of *The Provincial Land Tax Act* shall apply *mutatis mutandis* to the land or the interest therein so forfeited.

(4) Where forfeiture is annulled upon payment to the Minister of Lands and Forests in addition to any amounts payable under *The Provincial Land Tax Act* by reason of the forfeiture, of the amount of the arrears, penalties, interest, charges and costs referred to in subsection 1, the Minister of Lands and Forests shall remit to the secretary-treasurer of the commissioners the amount of such arrears, penalties and interest, and to the Minister of Highways such charges and costs. 1946, c. 88, s. 4.

Where forfeiture annulled on payment of arrears.

37. The commissioners, when duly elected, shall serve during the term for which they are elected or shall forfeit the sum of \$5, which may be sued for, together with costs, in any court having jurisdiction by any three electors making the complaint. R.S.O. 1937, c. 274, s. 31.

Penalty for neglect to serve as commissioners.

RECOVERY OF PENALTIES

38. The penalties imposed by this Act shall be recoverable under *The Summary Convictions Act*. R.S.O. 1937, c. 274, s. 32.

Recovery of penalties. Rev. Stat., c. 379.

FORM 1

(Section 14)

PUBLIC NOTICE

Notice is hereby given that a meeting will be held at (state place) on the.....day of....., 19....., at the hour of.....o'clock in thenoon to elect Road Commissioners for the Township of.....as provided by *The Statute Labour Act*.

Dated this.....day of....., 19.....

.....
Caller of Meeting.

1945, c. 23, s. 13, *part.*

FORM 2

(Section 21, 31 (2))

DECLARATION OF OFFICE

I,, do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of road commissioner (or secretary-treasurer of the road commissioners) of the Township of and that I have not received and I will not receive any payment or reward, or promise thereof for the exercise of any partiality or malversation or other undue execution of the said office and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the road commissioners of the said Township.

Declared before me this..... }
 day of , 19..... }

A Justice of the Peace.

1945, c. 23, s. 13, *part.*

FORM 3
(Section 33 (1))
STATUTE LABOUR BOOK
TOWNSHIP OF 19.....

OWNER OR LOCATEE		REAL PROPERTY				STATUTE LABOUR				COMMUTA- TION		ARREARS				PAYMENTS TO SECRETARY- TREASURER				Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
No.	Name	Address	No. of Conce- sion	No. of Lot	No. of Acres	No. of Acres Cleared	No. of Days Labour	Date Notice to Perform Served	Days Per- formed	Amount at Per Day	Amount Paid	Amount Commu- tation or Labour in Default	Penalty	Total Due	Date of Return to Sheriff	Arrears Paid	Interest Paid	Date of Notice to Sheriff		

FORM 4

(Section 34 (1))

NOTICE TO PERFORM STATUTE LABOUR

To.....

TAKE NOTICE that you are hereby required to perform.....
days statute labour for which you are liable on (*describe the lot or parcel of land*), and are required to report to....., the commissioner for the district in which your property is situate, at (*state place*) on the..... day of....., 19....., at the hour of.....o'clock in the.....noon and to perform the labour where and as directed by him. Instead of performing the statute labour required of you, you may within six days from the date of this notice, commute therefor by paying to the undersigned the sum of \$..... Should you fail to report and perform the statute labour required of you or to pay the amount of the commutation, proceedings will be taken to collect the amount of the commutation together with interest at ten per cent per annum. You will also be liable to a penalty recoverable under *The Summary Convictions Act*.

Dated at.....this.....day of....., 19.....

.....
Secretary-Treasurer

Road Commissioners of the Township of.....

1945, c. 23, s. 13, *part*.

FORM 5

(Section 34 (1),)

NOTICE TO PAY THE COMMUTATION OF
STATUTE LABOUR

To.....

TAKE NOTICE that you are hereby required to pay to the undersigned the amount of \$.....being the commutation of.....days statute labour at \$.....per day for which you are liable on (*describe the lot or parcel of land*) within six days from the date of this notice.

Should you fail to pay this amount proceedings will be taken to collect it together with interest at ten per cent per annum. You will also be liable to a penalty recoverable under *The Summary Convictions Act*.

Dated at.....this.....day of....., 19.....

.....
Secretary-Treasurer

Road Commissioners of the Township of.....

Address.....

1947, c. 100, s. 2.

FORM 6
(Section 35 (1))

RETURN TO SHERIFF

ROAD COMMISSIONERS OF THE TOWNSHIP OF
TO THE SHERIFF OF

TAKE NOTICE that the following owners or locattees have not paid the commutation for which they are liable as set forth opposite their names.

Dated at.....this.....day of....., 19.....

.....
Secretary-Treasurer

Address.....

Name of Owner or Locatee	Description of Lot or Parcel	Number of Acres	Amount of Com-mutation in Default	Year Imposed	Penalty	Total Due	Date Notice to Perform Served	How Notice Served (personally or by mail, if by mail to what address)

1945, c. 23, s. 13, part.

CHAPTER 373

The Statutes Act

1. An Act may be cited and referred to for all purposes by its title, or by its short title, or by a reference to the number of the particular chapter in the revised statutes or in the annual volume of statutes printed by the King's Printer. R.S.O. 1937, c. 2, s. 1. Citation of Acts.
2. The following words in an Act indicate the authority by virtue of which it is passed: "His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows". R.S.O. 1937, c. 2, s. 2. Enacting clause.
3. Any Act may be amended, altered or repealed by an Act passed in the same session of the Legislature. R.S.O. 1937, c. 2, s. 3. Amendment or repeal during same session.
4. The Clerk of the Assembly shall endorse on every Act, immediately after the title of the Act, the day, month and year when it was assented to, or reserved by the Lieutenant-Governor, and the day, month and year of the prorogation of the session of the Legislature at which it was passed, and where the Act is reserved the Clerk shall also endorse thereon the day, month and year when the Lieutenant-Governor has signified, either by speech or message to the Assembly, or by proclamation, that it was laid before the Governor-General in Council, and that the Governor-General was pleased to assent thereto, and such endorsements shall be taken to be a part of the Act. R.S.O. 1937, c. 2, s. 4 (1), (2), *part.* Endorsements on Acts.
- 5.—(1) Unless otherwise provided therein every Act shall come into force and take effect on the sixtieth day after the prorogation of the session of the Legislature at which it was passed or on the sixtieth day after the day of signification, whichever is the later date. R.S.O. 1937, c. 2, s. 4 (2), *part.* Commencement of Acts.
- (2) Where a session of the Legislature is ended by the dissolution of the Legislature, the date of the dissolution shall for the purposes of this section be deemed to be the date of the prorogation and in every such case the Clerk of the Assembly shall endorse on every Act passed at the session the day, month and year of the dissolution in lieu of the day, month and year of the prorogation, 1945 (2nd Sess.), c. 9, s. 1. Where Legislature dissolved.

Proclama-
tions.

(3) Where an Act provides that it is to come into force on a day to be named by the Lieutenant-Governor by his proclamation, or that it is not to come into force until a day to be so named, any such proclamation may apply to the whole or any part or parts or portion or portions or section or sections of the Act, and proclamations may be issued at different times as to any part or parts or portion or portions or section or sections of the Act. R.S.O. 1937, c. 2, s. 5.

Printing and
distribution.

6. The statutes shall be printed, published and distributed by the King's Printer in such manner as may from time to time be prescribed by the Lieutenant-Governor in Council and approved by resolution of the Assembly. R.S.O. 1937, c. 2, s. 6.

Clerk to
furnish
copies of Acts
to King's
Printer.

7. The Clerk of the Assembly shall furnish the King's Printer with a certified copy of every Act of the Legislature as soon as it has been assented to, or if the Act has been reserved, as soon as the assent thereto has been signified. R.S.O. 1937, c. 2, s. 7.

CHAPTER 374

The Steam Boilers Act

1. In this Act and in the regulations,

Interpreta-
tion.

- (a) "inspector" means an inspector appointed by the Lieutenant-Governor in Council under this Act;
- (b) "Minister" means Minister of Labour;
- (c) "regulations" means regulations made under this Act;
- (d) "steam boiler" means any vessel or structure in which steam is generated for power or heating purposes, and any vessel or other appliance in which steam, gas, air or liquid is contained under pressure, and includes all pipes, apparatus and machinery attached to, or connected with a steam boiler, but not a portable boiler rated at 25 horse power or under, used exclusively for horticultural or agricultural purposes. R.S.O. 1937, c. 343, s. 1.

2. Upon the recommendation of the Minister, the Lieu- Regulations.
tenant-Governor in Council may make regulations,

- (a) respecting the construction, repair, sale or exchange of steam boilers, and the approval of designs and installation of high pressure steam piping and fittings;
- (b) prescribing specifications for the construction of steam boilers, including the material to be used, the method and order of construction, the tests to be applied during and after construction;
- (c) for the inspection of every steam boiler during its construction and before it is removed from the place of construction, and for the inspection of used boilers when repaired, sold or exchanged;
- (d) for fixing the fees for examination of drawings and specifications, and for making inspections and collecting the travelling expenses incurred by inspectors for such inspections;
- (e) generally respecting such other matters as may be deemed proper to secure a uniform standard of

strength, safety and efficiency in the construction of steam boilers. R.S.O. 1937, c. 343, s. 2.

Appointment of inspectors.

3.—(1) The Lieutenant-Governor in Council may appoint inspectors of steam boilers for the purposes of this Act and for the enforcement of the regulations, and may designate one of them to be chief boiler inspector.

Employment of boiler inspection company.

(2) The Minister may employ any boiler insurance company registered in the Department of Insurance, or any inspection company engaged in the inspection of steam boilers, to make any inspection of steam boilers during their construction required by the regulations, and the company making such inspection shall report upon the same within fourteen days thereafter to the chief boiler inspector. R.S.O. 1937, c. 343, s. 4.

Inspectors not to be agents for boilers or machinery.

4. No person shall be appointed or hold office as an inspector who is directly or indirectly interested in the manufacture or sale of steam boilers or steam machinery. R.S.O. 1937, c. 343, s. 5.

Oath of office.

5. Every inspector shall, before entering upon the performance of his duties, take and subscribe an oath that he will faithfully and impartially perform the duties of his office. R.S.O. 1937, c. 343, s. 6.

Power to enter premises.

6. For the purpose of seeing that this Act and the regulations are complied with, an inspector may at any reasonable hour enter upon any land or into any building where any steam boiler is under construction, alteration or repair. R.S.O. 1937, c. 343, s. 7.

Obstructing inspectors.

7. Every person who interferes with or obstructs any inspector in the performance of his duties under this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$50. R.S.O. 1937, c. 343, ss. 8, 14.

Inspectors may summon witnesses.

8.—(1) An inspector may by notice in writing require the attendance before him, at a time and place named in the notice, of any person, and may examine him either alone or in the presence of another person as he may think fit as to any matter connected with the construction, alteration or repair of a steam boiler or its removal from any place in which it has been constructed, altered or repaired.

Oath.

(2) For the purposes of subsection 1, the inspector may administer an oath to any person to be examined by him.

(3) Every person who wilfully neglects or refuses to attend before the inspector after receiving notice so to do, or refuses to be sworn or to give evidence before the inspector, or to answer any question put to him by the inspector touching the matters mentioned in subsection 1, shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$25. R.S.O. 1937, c. 343, ss. 9, 14.

Penalty for neglect to attend.

9.—(1) Upon completion of his inspection, the inspector shall issue to the owner or manufacturer of the boiler an inspection certificate, and the owner or manufacturer shall pay the inspector such fee as may be prescribed by the regulations for the inspection and the issue of the certificate. R.S.O. 1937, c. 343, s. 10 (1); 1938, c. 38, s. 3.

Inspection certificate.

(2) Every owner or manufacturer who neglects or refuses to pay the inspector such fee shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20. R.S.O. 1937, c. 343, ss. 10 (2), 14.

Penalty for refusal to pay fee.

10.—(1) Every owner or manufacturer who knowingly contravenes any of the provisions of this Act or the regulations in such a manner as to endanger the safety of any person or who refuses or neglects to comply with any order, direction or recommendation lawfully given or made under this Act or the regulations dealing with the safe manufacture, installation or repair of steam boilers shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$300.

Penalty for contravention, endangering safety.

(2) Every person who contravenes any of the provisions of this Act or the regulations shall be guilty of an offence and on summary conviction where no other penalty is provided shall be liable to a penalty of not less than \$10 and not more than \$50. R.S.O. 1937, c. 343, ss. 11, 14.

Penalty, when not otherwise provided.

11.—(1) Any person who is dissatisfied with the action of an inspector or with a certificate of inspection issued by an inspector may within one week after the inspection appeal to the Minister, who may thereupon cause another inspection to be made by one or more competent inspectors, who shall report to him, and the decision of the Minister shall be final.

Appeal to the Minister.

(2) Any expenses occasioned by the appeal and second inspection shall be paid as determined by this Minister. R.S.O. 1937, c. 343, s. 12.

Expenses.

12. All fees paid and all penalties recovered under this Act or the regulations shall be paid to the Treasurer of Ontario. R.S.O. 1937, c. 343, s. 13.

Application of fees and penalties.



CHAPTER 375

The Steam Threshing Engines Act

1. Every manufacturer of steam threshing engines shall provide each engine with an efficient spark arrester before selling or disposing of the same, and no person shall use or run any steam threshing engine unless it is provided with an efficient spark arrester, and every owner or other person using or running the engine shall keep the spark arrester in proper working order whenever the engine is in use or running. Engines to be furnished with spark arresters.
R.S.O. 1937, c. 342, s. 1.

2.—(1) Every manufacturer who sells or disposes of a steam threshing engine without an efficient spark arrester shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$20. Penalty.

(2) Every person using or running a steam threshing engine not provided with an efficient spark arrester, or wilfully using or running a steam threshing engine not having a spark arrester in proper working order, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$20 for every day he so uses such steam threshing engine. Idem. R.S.O. 1937, c. 342, ss. 2, 3.

3. One-half of any fine recovered under this Act shall be paid to the informer and the other half shall be paid to the treasurer of the municipality in which the offence was tried. Application of penalty.
R.S.O. 1937, c. 342, s. 4.

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CHAPTER 376

The Stock Yards Act

1. In this Act,

Interpre-
tation.

- (a) "Board" means Ontario Stock Yards Board;
- (b) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;
- (c) "manager" means manager appointed under this Act;
- (d) "Minister" means Minister of Agriculture;
- (e) "regulations" means regulations made under this Act;
- (f) "securities" includes bonds, debentures and promissory notes. 1944, c. 59, s. 1; 1946, c. 89, s. 42 (1).

2.—(1) The Ontario Stock Yards Board heretofore constituted is continued as a body corporate. Ontario Stock Yards Board.

(2) The Board shall have a corporate seal in the form prescribed by the regulations. Seal.

(3) The Board shall consist of not more than seven persons appointed by the Lieutenant-Governor in Council. Members of Board.

(4) The Lieutenant-Governor in Council may appoint one of the members of the Board to be chairman and one of the members to be vice-chairman. Chairman; vice-chairman.

(5) A majority of the members of the Board shall constitute a quorum. Quorum.

(6) The members of the Board shall receive such fees and expenses as the Lieutenant-Governor in Council may determine, and any member of the Board who is charged with the performance of any special services may be paid such additional remuneration therefor as the Lieutenant-Governor in Council may determine. 1944, c. 59, s. 2. Allowances and expenses.

3.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Board may appoint a manager of any stock yard which it operates and such officers as may be prescribed by the regulations and fix their remuneration, and the appointment of any person as a manager or other officer shall not disqualify him from acting as chairman, vice-chairman or a member of the Board. Officers.

Employees. (2) Subject to the approval of the Board, the manager of a stock yard may appoint such employees as he deems necessary and fix their salaries or other remuneration. 1944, c. 59, s. 3.

Objects of the Board.

4.—(1) The objects of the Board shall be,

- (a) to acquire, construct, equip and operate live-stock markets, and to acquire and operate such facilities for the transportation of live stock as may be necessary for the purposes of such markets; and
- (b) to do such other acts as may be necessary or expedient for the carrying out of its operations and undertakings.

Power to borrow money and issue securities.

(2) The Board shall have power to borrow money and to issue securities for the purpose of carrying out any of its objects and to make such securities payable as to principal and interest at such time or times and in such manner and at such place or places as the Board may determine. 1946, c. 89, s. 42 (2), *part*.

General powers. Rev. Stat., c. 59.

(3) The Board shall have the powers set out in sections 23 and 24 of *The Companies Act*. 1950, c. 79, s. 24 (1).

Acquiring land, etc.

5.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Board,

- (a) shall have power to acquire by purchase, lease or in any other manner or without the consent of the owner thereof to enter upon, take possession of, expropriate and use,
 - (i) the land, property, assets and undertakings of Union Stock Yards of Toronto, Limited,
 - (ii) the land, property, assets and undertakings of any other stock yards,
 - (iii) any other land or property which it may deem necessary for its undertakings; and
- (b) shall have and may exercise and enjoy in addition to the powers conferred by this Act, all the powers conferred upon the Minister of Public Works in relation to a public work by *The Public Works Act* and in the application of this section where the words "the Minister", "the Department" or "the Crown" appear in such Act, they shall, where the context permits, mean the Board.

Rev. Stat., c. 323.

Mode of perfecting title.

(2) Upon the deposit in the proper registry or land titles office of a plan and description of the land acquired by the Board, signed by the chairman of the Board and by an Ontario land surveyor, the land so described shall thereupon become and be vested in the Board.

(3) Except as otherwise provided in this Act, the Board shall, in the exercise of its compulsory powers authorized by this section, proceed in the manner provided by *The Public Works Act* where the Minister of Public Works takes land or property for the use of Ontario, and all the provisions of that Act with respect to the fixing, payment and application of compensation shall apply *mutatis mutandis*. Procedure. Rev. Stat., c. 323.

(4) No action or proceeding of the Board taken pursuant to this section shall be restrained by injunction or process or proceeding in any court. 1944, c. 59, s. 5. Exercise of powers not to be enjoined.

6.—(1) The Lieutenant-Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Board, and repayment of any advances made by banks to the Board and the payment of any other indebtedness incurred by the Board. 1946, c. 89, s. 42 (3). Guarantee by Province.

(2) The form of any such guarantee and the manner of its execution shall be determined by the Lieutenant-Governor in Council. 1944, c. 59, s. 6 (2). Form of guarantee.

7.—(1) All moneys received by the Board from the operation of its undertakings or otherwise shall be applied to, Application of moneys.

- (a) operating expenses;
- (b) payment of interest on indebtedness; and
- (c) repayment of principal moneys borrowed.

(2) Any surplus moneys shall be paid to the Treasurer of Ontario and deposited in the Consolidated Revenue Fund, and shall constitute a fund to be known as the Live-stock Improvement Fund appearing on the books of the Treasurer of Ontario as the Live-stock Improvement Fund. Surplus moneys.

(3) The Live-stock Improvement Fund shall be available for the purposes of the improvement of live stock and for such purpose the Minister may with the approval of the Lieutenant-Governor in Council direct payment out of the Fund of such amounts to such persons or organizations as he may deem proper. 1944, c. 59, s. 7. Payments out of Fund.

8. The Board shall, not later than the 31st day of January in every year, make an annual report to the Minister upon its operations during the preceding year and such report shall be laid before the Assembly as soon as may be. 1944, c. 59, s. 8. Annual report of Board.

9. The books and accounts of the Board shall be audited and checked from time to time by the provincial Auditor or Audit.

such other auditor as the Lieutenant-Governor in Council may designate and the auditor shall make an annual report to the Treasurer of Ontario. 1944, c. 59, s. 9.

Authority
to sue and
be sued.

10. The Board may be sued and may institute or defend proceedings in any court. 1944, c. 59, s. 10.

Taxation.

11. The real and personal property, business and income of the Board shall be exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature, but with the approval of the Lieutenant-Governor in Council, any land owned by the Board may be made subject to assessment and taxation for municipal and school purposes at the actual value thereof according to the average value of land in the locality, or at such value as may be agreed upon by the council of the local municipality and the Board. 1944, c. 59, s. 11.

Operation
of stock
yards.

12. No person other than the Board shall construct, maintain or operate any stock yard or any premises where live stock is assembled for the purpose of sale either directly or indirectly to an abattoir, packing house or slaughter house except with the approval of the Board, but this section shall not apply to any such stock yard or premises which was so operated on the 12th day of May, 1944, so long as such stock yard or premises is not extended or enlarged. 1944, c. 59, s. 12.

Regulations.

13. Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations,

- (a) prescribing the officers of the Board and prescribing the powers and duties of such officers and of any manager;
- (b) prescribing the form of the seal of the Board;
- (c) limiting or regulating the objects and powers of the Board or the exercise thereof;
- (d) prescribing the records, books and accounts to be kept by the Board;
- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1944, c. 59, s. 13.

CHAPTER 377

The Suburban Area Development Act

1. In this Act,

Interpretation.

- (a) "board" means suburban service board established under this Act;
- (b) "municipal service" means sewage and sewage disposal, opening, widening, extending, paving, repairing and maintaining of a street or highway, street railway transportation, the supplying of light, heat or water for municipal purposes or for the use of the inhabitants, fire protection or police protection;
- (c) "urban municipality" means a city, town, village, or police village in which a municipal service has been established. R.S.O. 1937, c. 271, s. 1.

2. The council of a township adjacent to a city, town, village or police village in which a municipal service has been established, may by by-law set apart any part of the township lying within a distance of five miles from the boundary of the urban municipality as a suburban area and may provide for the election of a board to be known as a suburban service board, consisting of five persons resident in the suburban area who shall be elected by the municipal electors within the suburban area in the same manner as nearly as may be as the members of a municipal council. R.S.O. 1937, c. 271, s. 2.

Township by-law for setting aside suburban area.

3. The members of the board shall be elected annually at the same time as the members of the township council. R.S.O. 1937, c. 271, s. 3.

Annual election of board.

4. The board shall hold its first meeting at such time and place as shall be fixed by the by-law and shall be organized by the election of a chairman from among the members of the board and the appointment of a secretary of the board who may be one of the members thereof. R.S.O. 1937, c. 271, s. 4.

Meetings of board.

5. The municipal corporation of the urban municipality and the board may enter into agreements from time to time,

Agreements between municipal corporation and board.

- (a) for the extension or supply to the suburban area or to any part thereof of any municipal service in the urban municipality;

- (b) prescribing the terms upon which such municipal service shall be extended or supplied and the amount of any payments to be made therefor, and the times of payment, and the rates, if any, to be chargeable to the users of any such municipal service in the suburban area;
- (c) for the settlement of any disputes or matters of difference which may arise with respect to the extension or supply of any such municipal service within the suburban area by the board or by any person or persons agreed upon;
- (d) for the management, control and operation of any municipal service so extended or supplied in the suburban area by the board or by a joint body composed of representatives of the board and the corporation of the urban municipality, or by any other person or commission or body of persons agreed upon by the board and the corporation of the urban municipality;
- (e) for the levying of an annual special rate within the suburban area to provide the sums necessary to meet the cost of any municipal service so extended or supplied. R.S.O. 1937, c. 271, s. 5.

Effect of approval by Municipal Board of agreements.

6. The agreement shall not be acted upon or take effect until it has been submitted to and approved by order of the Ontario Municipal Board, and when so approved, any agreement made or purporting to be made under the authority of this Act shall not be open to question in any action or other proceeding in any court, and any matters of difference arising with respect to the interpretation or operation of the agreement shall be determined by the Ontario Municipal Board. R.S.O. 1937, c. 271, s. 6.

Annual estimates to be submitted to township council.

7. Where an agreement has been entered into under the authority of this Act, the board shall annually prepare an estimate of the sums required to be raised within the suburban area to meet the payments called for under the agreement, and shall submit the estimate to the council of the township. R.S.O. 1937, c. 271, s. 7.

Special rate to be levied annually.

8. The council shall cause to be levied in each and every year a special rate within the suburban area on all property liable to taxation therein to meet the sums so required, and the amount so raised shall be subject to the order of the board and shall be paid out of the treasury of the township from time to time as the board may direct, upon a requisition signed by the chairman of the board. R.S.O. 1937, c. 271, s. 8.

9. Where the agreement provides for the doing of any work in connection with the extension or supply of a municipal service under the provisions of *The Local Improvement Act*, the council of the township shall pass all necessary by-laws and levy all special rates required to carry out the terms of the agreement. R.S.O. 1937, c. 271, s. 9.

Extension or supply of a municipal service.
Rev. Stat., c. 215.

10. Notwithstanding anything in this Act or in any agreement entered into under section 5, the issue of debentures and the amount of any debenture debt to be incurred for any of the purposes to which this Act relates shall at all times be in the discretion of the council of the township and the board shall not enter into any contract or bind itself in any way to the expenditure of money to be raised by the issue of debentures without the approval of the council first had and obtained. R.S.O. 1937, c. 271, s. 10.

Approval of council as to issue of debentures.

1. The first part of the paper is devoted to a general discussion of the problem of the existence of solutions of the system of equations (1) and (2) under the conditions (3) and (4). It is shown that the system has a solution if and only if the conditions (5) and (6) are satisfied. The proof of this theorem is given in the next section.

2. In the second part of the paper, the problem of the uniqueness of the solution of the system (1) and (2) is considered. It is shown that the system has a unique solution if and only if the conditions (7) and (8) are satisfied. The proof of this theorem is given in the next section.

CHAPTER 378

The Succession Duty Act

1. In this Act,Interpre-
tation.**(a)** "aggregate value" means,

- (i) the value at the date of death of the deceased of the property wherever situate passing on his death, and
- (ii) the value of all dispositions wherever made, where such dispositions are made on or after the 1st day of July, 1892,

less the debts, encumbrances and other allowances authorized by subsection 5 of section 2 and less the exemptions authorized by section 4;

(b) "beneficial interest" includes any ownership and any interest other than that of a trustee or executor, and any expression of like import has a like meaning;**(c)** "business" means partnership, firm, syndicate or other unincorporated organization;**(d)** "child" means lawful child of the deceased, lineal descendant of any such child born in lawful wedlock, person adopted while under the age of 12 years by the deceased, person to whom the deceased during the infancy of any such person stood in *loco parentis* for a period of not less than five years, or lineal descendant of any such adopted child or person;**(e)** "company" means corporation or other incorporated organization;**(f)** "disposition" means,

- (i) any means whereby any property passes or is agreed to be passed, directly or indirectly, from the deceased during his lifetime to any person,
- (ii) any means whereby any person is benefited, directly or indirectly, by any act of the deceased during the lifetime of the deceased,

- (iii) any allocation, assignment, delivery, dispatching, giving, mailing, payment, release, sending, surrender, transfer or waiver of or any agreement to allocate, assign, deliver, dispatch, give, mail, pay, release, send, surrender, transfer or waive, during the lifetime of the deceased, any property of any business or company in which the interest of the deceased or his agent or nominee was at the time of such allocation, assignment, delivery, dispatching, giving, mailing, payment, release, sending, surrender, transfer, waiver or agreement, alone or added to that of any member of the family of the deceased, more than 50 per cent, directly or indirectly, of the whole, or any property of any business or company in which the interest of any such first-mentioned business or company was more than 50 per cent, directly or indirectly, of the whole,
- (iv) any payment during the lifetime of the deceased to any person as a result of the creation of a trust by the deceased, exclusive of the payment of any income derived from any property in which such person had the beneficial interest,
- (v) any payment to or enjoyment by any person during the lifetime of the deceased as a result of any assignment, giving, release, surrender, transfer or waiver of or agreement to assign, give, release, surrender, transfer or waive by the deceased, any right to receive payment of any annuity or income or the right to enjoy any estate or interest for life or term of years, or
- (vi) any payment during the lifetime of the deceased to any person as a result of any arrangement effected by the deceased in his lifetime for any annuity, income or other periodic payment, exclusive of the payment of any income derived from any property in which such person had the beneficial interest,

without consideration in money or money's worth or for partial consideration in money or money's worth to the extent by which the value of the property or benefit exceeds the value of such partial consideration, and such means includes,

- (vii) any assignment, delivery, dispatching, giving, mailing, payment, release, sending, surrender, transfer or waiver of any property,
- (viii) any agreement to assign, deliver, dispatch, give, mail, pay, release, send, surrender, transfer or waive any property,
- (ix) any creation of trust, and
- (x) any contribution of any property of the deceased to a joint tenancy where the deceased is one of the joint tenants, to the extent of the value of the property or part of the property taken or converted during the lifetime of the deceased by any of the other joint tenants for the use or benefit of such other joint tenant,

provided that marriage shall not be deemed to constitute consideration for any disposition;

- (g) "dutiable value" of any property situate in Ontario passing on the death of the deceased, "dutiable value" of a transmission, or "dutiable value" of a disposition made in Ontario, means, respectively, the value of such property at the date of death of the deceased, the value of such transmission, and the value of such disposition, after allowance has been made for the debts, encumbrances and other allowances authorized by and in accordance with subsection 5 of section 2;
- (h) "executor" includes administrator and administrator with the will annexed;
- (i) "interest in expectancy" includes an estate, income or interest, in remainder or reversion and any other future interest whether vested or contingent, but does not include a reversion expectant upon the determination of a lease;
- (j) "member of the family" and any expression of like import means,
 - (i) child,
 - (ii) son-in-law or daughter-in-law of the deceased,
 - (iii) person adopted under *The Adoption Act* by Rev. Stat., c. 7. the deceased or the spouse or any lawful descendant of such person,
 - (iv) husband or wife of the deceased,

- (v) father, mother or any brother or sister of the deceased or any lawful descendant of any such brother or sister,
 - (vi) any brother or sister of the father or mother of the deceased or any lawful descendant of any such brother or sister,
 - (vii) the father, mother or any brother or sister of the husband or wife of the deceased or any lawful descendant of any such brother or sister, or
 - (viii) any grandfather or grandmother of the deceased;
- (k) "money" includes bill of exchange, cheque, deposit receipt, interest coupon, money order, promissory note and any other like instrument;
- (l) "passing on the death" means passing either immediately on the death or after an interval, either certainly or contingently and either originally or by way of substitutive limitation;
- (m) "person to whom a disposition is made" and any expression of like import means person who benefits by a disposition;
- (n) "person to whom there is a transmission" and any expression of like import means person who benefits by a transmission;
- (o) "property in respect of which a disposition is made" and any expression of like import includes any property into which such property has become directly or indirectly converted and any property which, exclusive of income, has been derived from such property; 1939 (2nd Sess.), c. 1, s. 1, cls. (a-o).
- (p) "property passing on the death of the deceased" is deemed to include,
- (i) any property held jointly by the deceased and one or more persons and payable to or passing to the survivor or survivors, except that part of such property which is shown to the satisfaction of the Treasurer to have been contributed by the survivor or survivors, provided that where the joint tenancy or holding is created by a person other than the deceased and the survivor or survivors, such property shall be deemed to have been contributed to

- equally by the deceased and the survivor or
equally by the deceased and each of the survivors,
- (ii) any annuity, income or other interest purchased or in any manner provided by the deceased either by himself alone or in concert or by arrangement with any other person to the extent of the interest therein accruing or arising on the death of the deceased,
 - (iii) that portion of the money payable as a result of the death of the deceased under a contract of insurance as is in the same ratio to the whole that the amount of the premiums paid by the deceased on such contract bears to the total amount of the premiums paid,
 - (iv) the interest of the deceased in a contract of insurance which provides for the payment of money as a result of the death of a person other than the deceased,
 - (v) any money payable as a result of the death of the deceased under a contract of insurance to any business or company by which the deceased was employed or with which he was associated or in which he was interested, to the extent of any part of such money not paid to or paid to and not thenceforward retained by such business or company for its own use and benefit,
 - (vi) that portion of the interest of any business or company mentioned in subclause v in a contract of insurance which provides for the payment of money as a result of the death of a person other than the deceased, which is paid to any member of the family of the deceased,
 - (vii) any property over which the deceased had at the time of his death a general power of appointment either by instrument *inter vivos* or by will or both, including the powers exercisable by a tenant in tail whether in possession or not, but exclusive of any power exercisable in a fiduciary capacity not created by the deceased, or as mortgagee, and whether or not concurrence of any other person is required, and provided that money which the deceased has a general power to charge on property shall be deemed to be property of which he has the power to dispose,

- (viii) any property passing under any past or future settlement, including any trust, whether expressed in writing or otherwise and if contained in a deed or other instrument effecting the settlement, whether such deed or other instrument was made for valuable consideration or not, as between the settlor and any other person, made by deed or other instrument not taking effect as a will, whereby an interest in such property or the proceeds of sale thereof for life, or any other period determinable by reference to death, is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right by the exercise of any power to restore to himself, or to reclaim the absolute interest in such property, or the proceeds of sale thereof, or to otherwise resettle the same or any part thereof,
- (ix) any property in respect of which a disposition is made in Ontario on or after the 1st day of July, 1892, to any person who is not resident in Ontario at the date of death of the deceased, which at the date of death of the deceased was situate in Ontario and was owned by the person to whom such disposition is made or by a business or company in which such person was interested directly or indirectly and to which such person has transferred such property without full consideration in money or money's worth,
- (x) any property in respect of which a disposition is made outside Ontario on or after the 1st day of July, 1892, which at the date of death of the deceased was situate in Ontario and was owned by the person to whom such disposition is made or by a business or company in which such person was interested directly or indirectly and to which such person has transferred such property without full consideration in money or money's worth, and where the deceased was domiciled in Ontario at the time the disposition was made and at the date of his death, and
- (xi) any right, interest or estate in dower or by curtesy to which the wife or husband of the deceased may be entitled; 1939 (2nd Sess.), c. 1, s. 1, cl. (p); 1940, c. 29, s. 1.

- (q) "regulations" means regulations made under this Act;
- (r) "security" includes bonds, debentures, guaranteed investments, shares, stocks, rights to subscribe for or purchase shares or stocks, rights to royalties, syndicate units and anything designated as a security by the regulations;
- (s) "transmission" means the passing on the death of any person domiciled in Ontario to any person resident or domiciled in Ontario at the date of death of the deceased, of any personal property situate outside Ontario at the date of such death including such of the personal property mentioned in subclauses i to viii of clause *p* as is situate outside Ontario at such date;
- (t) "Treasurer" means Treasurer of Ontario. 1939 (2nd Sess.), c. 1, s. 1, cls. (q-t).

2.—(1) For the purposes of this Act,

Values.

- (a) the value of any security which is listed on any stock exchange, or if not so listed, on which a price or quotation is obtainable from financial journals, recognized financial reports or registered brokers, shall be the closing price or quotation of such security on the day as of which such value is to be determined, or if there is no closing price or quotation on such day, then on the last preceding day on which there is a closing price or quotation, provided that this clause shall not apply where there is not a sufficiently widespread distribution of the securities of which such security forms a part to reflect the true value thereof in such price or quotation, or where such price or quotation is or may be the result of any manipulation or any exercise of any means of influence or control;
- (b) the value of a disposition shall be the value at the date of death of the deceased of the property in respect of which such disposition is made, provided that,
 - (i) if such property has been sold for or converted into money during the lifetime of the deceased, the amount of such money shall be the value of such disposition,
 - (ii) if the disposition is of money, the amount of such money shall be the value of such disposition,

- (iii) if the disposition is a remission of a debt, the amount of such debt at the date of such remission shall be the value of such disposition, and
- (iv) if the disposition is a disposition of the right to enjoy as mentioned in subclause v of clause f of section 1, the value of such right as at the date of such disposition shall be the value of such disposition; and
- (c) the value of a transmission shall be the value at the date of death of the deceased of the property in respect of which there is a transmission. 1939 (2nd Sess.), c. 1, s. 2 (1); 1946, c. 90, s. 1 (1, 2).

Income tax.
1948, c. 52,
(Can.).

(2) In valuing any security, or any business or any interest in any business the fact that any tax under *The Income Tax Act* (Canada) or any similar tax may be or become payable by reason of or in respect of the payment or distribution of any accumulated surplus or other property to the holder of such security or to any person having an interest in such business, shall not be taken into consideration, unless and to the extent only that such distribution is necessary and is made for the purpose of raising money for the payment of duty. 1946, c. 90, s. 1 (3).

Variance in
value of
property.

(3) In valuing any property in respect of which a disposition is made,

- (a) where such property was subject to encumbrance at the time such disposition was made and such encumbrance is in existence at the date of death of the deceased; or
- (b) where there was partial consideration as mentioned in clause f of section 1,

and the value of such property has varied between the time such disposition was made and the date of such death, the value or amount of such encumbrance or the value or amount of such partial consideration shall be deemed to vary in like proportion.

Valuation of
annuities,
etc.

(4) Every annuity, term of years, life estate, income or other estate and any interest in expectancy shall be valued according to such rule, method and standard of mortality and of value and at such rate of interest as the Lieutenant-Governor in Council may determine. 1939 (2nd Sess.), c. 1, s. 2 (3, 4).

(5) In determining aggregate value and in determining dutiable value allowance shall be made for reasonable funeral expenses for the deceased, for debts and encumbrances incurred or created by the deceased *bona fide* and for full consideration in money or money's worth wholly for his own use and benefit, for surrogate court fees and for solicitor's fees for obtaining probate or letters of administration to an amount not exceeding \$100, and all debts and encumbrances for which allowance is made shall be deducted from the value of the land or other subject of property liable thereto, but allowance shall not be made,

Aggregate
value and
dutiable
value.

- (a) for any debt in respect of which there is a right to reimbursement except such part thereof for which reimbursement cannot be obtained;
- (b) more than once for the same debt or encumbrance charged upon different properties;
- (c) save as aforesaid, for the expense of the administration of the property or the execution of any trust created by the will of the deceased or by any instrument made by him during his lifetime;
- (d) for any debt or encumbrance or any part thereof which by due process of law cannot be realized out of any property;
- (e) for any wages, salaries or other remuneration due by the deceased to any member of his family, except such part of such wages, salaries or other remuneration as the Treasurer may deem reasonable and proper;
- (f) for any part of any debt not actually and *bona fide* paid or intended to be paid;
- (g) for any debt not recoverable by reason of *The Limitations Act* or any other statute of limitations. 1939, (2nd Sess.), c. 1, s. 2 (5); 1946, c. 90, s. 1 (4).

Rev. Stat.,
c. 207.

3. No duty shall be levied on,

Where no
duty to be
levied.

- (a) any property situate in Ontario passing on the death of the deceased to any one person where the value of all the property so passing to such person does not exceed \$500;
- (b) any person to whom there is a transmission, with respect to such transmission, where the value of all transmissions to such person does not exceed \$500;

- (c) any person to whom a disposition is made, with respect to such disposition, where the value of all dispositions to such person does not exceed \$500;
- (d) any property situate in Ontario passing on the death of the deceased to any one person where such property consists wholly of an annuity not exceeding \$100, or of an estate or interest for life or for a term in any property the yearly income from which does not exceed \$100;
- (e) any person to whom there is a transmission, with respect to such transmission, where all the property in respect of which there are transmissions to such person consists wholly of an annuity not exceeding \$100, or of an estate or interest for life or for a term in any property the yearly income from which does not exceed \$100;
- (f) any person to whom a disposition is made, with respect to such disposition, where all the property in respect of which dispositions to such person are made consists wholly of an annuity not exceeding \$100, or of an estate or interest for life or for a term in any property the yearly income from which does not exceed \$100;
- (g) any property situate in Ontario passing on the death of the deceased to any one of the persons to whom subsection 3 of section 6 applies, such person to whom there is a transmission and such person to whom any disposition is made, where the value of all such property, transmissions and dispositions does not exceed \$1,000, provided such person was in the employ of the deceased for a period of at least five years immediately prior to the death of the deceased; or
- (h) any money payable as a result of the death of the deceased and any interest by way of annuity or otherwise accruing or arising on the death of the deceased, under any contract of insurance within the meaning of *The Insurance Act* where the deceased was domiciled outside Ontario at the date of his death;

Rev. Stat.,
c. 183.

provided that,

- (i) the total amount in respect of which no duty shall be levied under clauses, *a*, *b* and *c* shall not exceed \$500;

- (j) the total amount in respect of which no duty shall be levied under clauses *d*, *e* and *f* shall not exceed an annuity or yearly income of \$100; and
- (k) where by reason of clauses *d*, *e* and *f* no duty is levied, clauses *a*, *b* and *c* shall not apply. 1939 (2nd Sess.), c. 1, s. 3; 1946, c. 90, s. 2.

4.—(1) No duty shall be levied on any of the following property, nor on any person to whom there are any transmissions of any of the following property, with respect to such transmissions, nor on any person to whom any of the following dispositions are made, with respect to such dispositions, and such property and dispositions shall not be included in the aggregate value nor included for the purpose of determining any rate of duty,

Where no duty to be levied and what not to be included in aggregate value.

- (a) any disposition for religious, charitable or educational purposes to any religious, charitable or educational organization which carries on its work solely in Ontario;
- (b) any property devised or bequeathed by the deceased for religious, charitable or educational purposes to any religious, charitable or educational organization which carries on its work solely in Ontario;
- (c) any disposition for religious, charitable or educational purposes to any religious, charitable or educational organization which carries on its work both in and outside Ontario to the extent of that portion in value of the property in respect of which the disposition is made as is in the same ratio to the whole that its expenditures for carrying on its work in Ontario bear to its total expenditures during such period as the Treasurer may determine;
- (d) that portion of any property devised or bequeathed by the deceased for religious, charitable or educational purposes to any religious, charitable or educational organization which carries on its work both in and outside Ontario as is in the same ratio to the whole that its expenditures for carrying on its work in Ontario bear to its total expenditures during such period as the Treasurer may determine;
- (e) any property devised or bequeathed by the deceased to and any disposition to the United Kingdom of Great Britain and Northern Ireland, the Dominion of Canada, the Province of Ontario or any municipality in Ontario;

- (f) any disposition for necessities or education to or for any member of the family of the deceased where it is shown to the satisfaction of the Treasurer that such member was dependent in whole or in part on the deceased for such necessities or education;
- (g) any disposition to any person made more than five years before the date of death of the deceased, where actual and *bona fide* enjoyment and possession of the property in respect of which the disposition is made, was immediately assumed by the person to whom the disposition is made and thenceforward retained to the entire exclusion of the deceased or of any benefit to him whether voluntarily or by contract or otherwise, provided that this clause shall not apply to any disposition resulting in the making of periodic payments, except such payments made more than five years before the date of death of the deceased;
- (h) any money paid to or enjoyed by any member of the family of the deceased on or after the death of the deceased out of or in respect of any pension fund or scheme of general application to employees by reason of the employment of the deceased by the Dominion of Canada, the Province of Ontario or any municipality in Ontario;
- (i) any non-commutable annuity, income or periodic payment effected in any manner other than by will or testamentary instrument and paid for by the deceased during his lifetime, and paid to or enjoyed by the wife or dependent father or mother or any dependent brother, sister or child of the deceased after the death of the deceased, to the extent of \$1,200 per annum with respect to any one person and to the extent of \$2,400 per annum in the aggregate;
- (j) any property devised or bequeathed by the deceased to and any disposition to The Canadian National Institute for the Blind, The Canadian Red Cross Society or any patriotic organization or institution in Canada which receives the written approval of the Secretary of State of Canada; and
- (k) any property passing on the death of the deceased to any religious, charitable or educational organization for religious, charitable or educational purposes carried out in any province of Canada other than Ontario which is shown to the satisfaction of the Treasurer to allow the same exemption on property, given, devised or bequeathed to any religious,

charitable or educational organization for religious, charitable or educational purposes carried out in Ontario. 1939 (2nd Sess.), c. 1, s. 4 (1); 1941, c. 55, s. 37 (1); 1942, c. 34, s. 36; 1946, c. 90, s. 3.

(2) For the purposes of subsection 1 the Treasurer may in his absolute discretion determine whether any purpose or organization is a religious, charitable or educational purpose or organization within the meaning of clause *a*, *b*, *c*, *d* or *k* of subsection 1. 1939 (2nd Sess.), c. 1, s. 4 (2); 1941, c. 55, s. 37 (2).

(3) Notwithstanding anything in this section, clauses *a*, *b*, *c* and *d* of subsection 1 in so far as they apply to religious organizations shall apply to such organizations as if the word "Canada" were substituted for the word "Ontario" wherever it appears in such clauses. 1949, c. 98, s. 1.

5. Subject to sections 3 and 4, on the death of any person whether he dies domiciled in Ontario or elsewhere,

(a) where any property situate in Ontario passes on his death, duty shall be levied on such property in accordance with the dutiable value thereof;

(b) where there is any transmission, duty shall be levied on the person to whom there is such transmission, with respect to such transmission, in accordance with the dutiable value thereof;

(c) where any disposition, other than of realty situate outside Ontario, is made in Ontario on or after the 1st day of July, 1892, to any person who is resident in Ontario at the date of death of the deceased, duty shall be levied on such person, with respect to such disposition, in accordance with the dutiable value thereof;

(d) where any disposition of any personal property is made outside Ontario on or after the 8th day of March, 1937, to any person who is resident in Ontario at the time such disposition is made and at the date of death of the deceased and the deceased was domiciled in Ontario at the time such disposition is made and at the date of his death, duty shall be levied on the person to whom such disposition is made, with respect to such disposition, in accordance with the value thereof; provided that this clause shall not apply if, at the date of death of the deceased, the property in respect of which the disposition is made was both situate in Ontario and was owned by the person to whom the disposition is made or by a bus-

iness or company in which such person was interested directly or indirectly and to which such person has transferred such property without full consideration in money or money's worth. 1939 (2nd Sess.), c. 1, s. 5; 1940, c. 29, s. 4.

Rates of
duty,
preferred.

6.—(1) The duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of the father, mother, husband, wife or a grandfather, grandmother, child, son-in-law or daughter-in-law of the deceased, and the duty levied on the father, mother, husband, wife or a grandfather, grandmother, child, son-in-law or daughter-in-law of the deceased, shall be at the following rates:

Where the aggregate value,

- (a) exceeds \$50,000 and does not exceed \$75,000— $2\frac{1}{2}$ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$50,000;
- (b) exceeds \$75,000 and does not exceed \$100,000— $3\frac{1}{2}$ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$75,000;
- (c) exceeds \$100,000 and does not exceed \$150,000—5 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$100,000;
- (d) exceeds \$150,000 and does not exceed \$200,000— $5\frac{1}{2}$ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$150,000;
- (e) exceeds \$200,000 and does not exceed \$300,000—6 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$200,000;
- (f) exceeds \$300,000 and does not exceed \$400,000— $6\frac{1}{2}$ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$300,000;
- (g) exceeds \$400,000 and does not exceed \$500,000—7 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$400,000;
- (h) exceeds \$500,000 and does not exceed \$600,000— $7\frac{1}{2}$ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$500,000;
- (i) exceeds \$600,000 and does not exceed \$700,000—8 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$600,000;

- (j) exceeds \$700,000 and does not exceed \$800,000— $8\frac{1}{2}$ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$700,000;
- (k) exceeds \$800,000 and does not exceed \$900,000—9 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$800,000;
- (l) exceeds \$900,000 and does not exceed \$1,000,000— $9\frac{1}{2}$ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$900,000;
- (m) exceeds \$1,000,000 and does not exceed \$5,000,000—10 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$10,000 by which the aggregate value exceeds \$1,000,000;
- (n) exceeds \$5,000,000—14 per cent,

and the duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of any one of such persons and the duty levied on such person, shall be at the following additional rates:

Where the amount of the value of all the property which so passes and of the value of all transmissions to and dispositions made to such person, after making allowance for the debts, encumbrances and other allowances authorized by and in accordance with subsection 5 of section 2,

- (aa) exceeds \$50,000 and does not exceed \$75,000— $11\frac{1}{2}$ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the amount exceeds \$50,000;
- (bb) exceeds \$75,000 and does not exceed \$100,000—2 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the amount exceeds \$75,000;
- (cc) exceeds \$100,000 and does not exceed \$150,000— $21\frac{1}{2}$ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the amount exceeds \$100,000;
- (dd) exceeds \$150,000 and does not exceed \$300,000—3 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$3,000 by which the amount exceeds \$150,000;
- (ee) exceeds \$300,000 and does not exceed \$400,000— $31\frac{1}{2}$ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the amount exceeds \$300,000;
- (ff) exceeds \$400,000 and does not exceed \$500,000— $41\frac{1}{2}$ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$400,000;

- (gg) exceeds \$500,000 and does not exceed \$600,000—5 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$500,000;
- (hh) exceeds \$600,000 and does not exceed \$700,000—5½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$600,000;
- (ii) exceeds \$700,000 and does not exceed \$750,000—6 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the amount exceeds \$700,000;
- (jj) exceeds \$750,000 and does not exceed \$800,000—6½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the amount exceeds \$750,000;
- (kk) exceeds \$800,000 and does not exceed \$900,000—7 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$800,000;
- (ll) exceeds \$900,000 and does not exceed \$1,000,000—7½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$900,000;
- (mm) exceeds \$1,000,000 and does not exceed \$1,200,000—8 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$4,000 by which the amount exceeds \$1,000,000;
- (nn) exceeds \$1,200,000 and does not exceed \$1,400,000—8½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$4,000 by which the amount exceeds \$1,200,000;
- (oo) exceeds \$1,400,000 and does not exceed \$1,600,000—9 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$4,000 by which the amount exceeds \$1,400,000;
- (pp) exceeds \$1,600,000 and does not exceed \$1,800,000—9½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$4,000 by which the amount exceeds \$1,600,000;
- (qq) exceeds \$1,800,000 and does not exceed \$2,000,000—10 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$4,000 by which the amount exceeds \$1,800,000;
- (rr) exceeds \$2,000,000 and does not exceed \$2,200,000—10½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$4,000 by which the amount exceeds \$2,000,000;
- (ss) exceeds \$2,200,000 and does not exceed \$2,400,000—11 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$2,200,000;
- (tt) exceeds \$2,400,000 and does not exceed \$2,600,000—12 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$2,400,000;

- (uu) exceeds \$2,600,000 and does not exceed \$2,800,000—13 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$2,600,000;
- (vv) exceeds \$2,800,000 and does not exceed \$3,000,000—14 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$2,800,000; and
- (ww) exceeds \$3,000,000—15 per cent. 1939 (2nd Sess.), c. 1, s. 6 (1); 1940, c. 29, s. 5 (1); 1949, c. 98, s. 2.

(2) The duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of a lineal ancestor of the deceased except the grandfather, grandmother, father or mother, or to or for the benefit of a brother or sister of the deceased or any descendant of any such brother or sister or a brother or sister of the father or mother of the deceased or any descendant of any such brother or sister, and the duty levied on a lineal ancestor of the deceased except the grandfather, grandmother, father, or mother, or on a brother or sister of the deceased or any descendant of any such brother or sister, or on a brother or sister of the father or mother of the deceased or any descendant of any such brother or sister, shall be at the following rates:

Where the aggregate value,

- (a) exceeds \$10,000 and does not exceed \$30,000—5 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$10,000;
- (b) exceeds \$30,000 and does not exceed \$60,000—7 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$30,000;
- (c) exceeds \$60,000 and does not exceed \$100,000—10 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$60,000;
- (d) exceeds \$100,000 and does not exceed \$200,000—12 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$100,000;
- (e) exceeds \$200,000 and does not exceed \$400,000—13 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$200,000;
- (f) exceeds \$400,000 and does not exceed \$600,000—14 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$400,000;
- (g) exceeds \$600,000 and does not exceed \$800,000—15 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$600,000;

- (h) exceeds \$800,000 and does not exceed \$1,000,000—16 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$800,000;
- (i) exceeds \$1,000,000—17 per cent,

and the duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of any one of such persons and the duty levied on such person, shall be at the following additional rates:

Where the amount of the value of all the property which so passes and of the value of all transmissions to and dispositions made to such person, after making allowance for the debts, encumbrances and other allowances authorized by and in accordance with subsection 5 of section 2,

- (aa) exceeds \$10,000 and does not exceed \$60,000—2½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the amount exceeds \$10,000;
- (bb) exceeds \$60,000 and does not exceed \$160,000—3 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$60,000;
- (cc) exceeds \$160,000 and does not exceed \$200,000—3½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$4,000 by which the amount exceeds \$160,000;
- (dd) exceeds \$200,000 and does not exceed \$300,000—4 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$200,000;
- (ee) exceeds \$300,000 and does not exceed \$350,000—4½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the amount exceeds \$300,000;
- (ff) exceeds \$350,000 and does not exceed \$450,000—5 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$350,000;
- (gg) exceeds \$450,000 and does not exceed \$500,00—5½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the amount exceeds \$450,000;
- (hh) exceeds \$500,000 and does not exceed \$600,000—6 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$500,000;
- (ii) exceeds \$600,000 and does not exceed \$700,000—6½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$600,000;

- (jj) exceeds \$700,000 and does not exceed \$800,000—7 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$700,000;
- (kk) exceeds \$800,000 and does not exceed \$900,000—7½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the amount exceeds \$800,000;
- (ll) exceeds \$900,000 and does not exceed \$1,000,000—8 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the amount exceeds \$900,000;
- (mm) exceeds \$1,000,000 and does not exceed \$1,500,000—9 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$5,000 by which the amount exceeds \$1,000,000;
- (nn) exceeds \$1,500,000 and does not exceed \$2,000,000—10 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$5,000 by which the amount exceeds \$1,500,000;
- (oo) exceeds \$2,000,000 and does not exceed \$2,500,000—11 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$5,000 by which the amount exceeds \$2,000,000;
- (pp) exceeds \$2,500,000 and does not exceed \$3,000,000—12 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$5,000 by which the amount exceeds \$2,500,000; and
- (qq) exceeds \$3,000,000—13 per cent. 1939 (2nd Sess.), c. 1, s. 6 (2); 1940, c. 29, s. 5 (2).

(3) The duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of any person other than those to whom subsections 1 and 2 apply, and the duty levied on any person other than those to whom subsections 1 and 2 apply, shall be at the following rates:

Where the aggregate value,

- (a) exceeds \$5,000 and does not exceed \$10,000—7½ per cent plus 1 per cent for each full \$1,000 by which the aggregate value exceeds \$5,000;
- (b) exceeds \$10,000 and does not exceed \$50,000—12½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$800 by which the aggregate value exceeds \$10,000;
- (c) exceeds \$50,000 and does not exceed \$100,000—15 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$50,000;
- (d) exceeds \$100,000 and does not exceed \$200,000—17½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$100,000;

- (e) exceeds \$200,000 and does not exceed \$300,000—20 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$200,000;
- (f) exceeds \$300,000 and does not exceed \$400,000—22½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$300,000;
- (g) exceeds \$400,000 and does not exceed \$500,000—25 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$400,000;
- (h) exceeds \$500,000 and does not exceed \$600,000—27½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$500,000;
- (i) exceeds \$600,000 and does not exceed \$700,000—30 per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$600,000;
- (j) exceeds \$700,000 and does not exceed \$800,000—32½ per cent plus $\frac{1}{100}$ of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$700,000; and
- (k) exceeds \$800,000—35 per cent. 1939 (2nd Sess.), c. 1, s. 6 (3); 1940, c. 29, s. 5 (3).

Surtax:

(4) A surtax of 15 per cent of the amount ascertained according to subsection 1, of 20 per cent of the amount ascertained according to subsection 2 and of 25 per cent of the amount ascertained according to subsection 3, shall be levied, added to and paid with such respective amounts as duty. 1939 (2nd Sess.), c. 1, s. 6 (4).

Provision in will exonerating legatee from payment of tax.

7.—(1) Where the deceased by his will or in any instrument or in any other manner makes any provision for exonerating any person from, indemnifying any person in respect of or reimbursing any person for the payment of any duty, inheritance or death tax or similar impost payable by reason of the death of the deceased and any property is utilized or applied, in pursuance of such provision, in so exonerating, indemnifying or reimbursing any person,

- (a) such property shall be property passing on the death of the deceased to or for the benefit of such person; and
- (b) notwithstanding anything in this Act,
 - (i) the duty levied on any property shall be at the same rate at which duty would have been levied on or with respect to such property if no such provision had been made,

- (ii) the duty levied on any person shall, with respect to any transmission or disposition to him had no such provision been made, be at the same rate at which duty would have been levied with respect to such transmission or disposition if no such provision had been made, and the duty levied on any person shall, with respect to the transmission to him by reason of such provision, be at the same rate at which duty would have been levied if no such provision had been made, and
- (iii) the duty ascertained as provided in this section shall be due and payable and interest with respect thereto shall be charged or allowed the same as the duty which would arise if no such provision had been made would be due and payable and interest with respect thereto would be charged or allowed. 1946, c. 90, s. 4 (1).

(2) Where the deceased died before the 5th day of April, 1946, having by his will or any instrument or in any other manner made any provision relating to the payment of duty to the extent that any person on whom duty is levied or any person to whom or for whose benefit any property on which duty is levied passes, is exonerated from, indemnified in respect of or reimbursed for the payment of any duty, inheritance or death tax or similar impost, payable by reason of his death, and where the duty payable on or by reason of his death remains in dispute because of such provision, the persons by whom duty is payable may settle and pay all such duty on the basis *mutatis mutandis* of the provisions of subsection 1 as though such provisions were in force at the date of death of the deceased. 1946, c. 90, s. 4 (2).

8. Where estate, legacy or succession duty is payable and paid in any jurisdiction which may be designated by the Lieutenant-Governor in Council, on property in respect of which there is a transmission, the duty levied, pursuant to clause *b* of section 5, on any person to whom there is such transmission with respect to such transmission shall be reduced by the amount of the duty so paid which does not exceed the amount of the duty so levied. 1946, c. 90, s. 5.

9.—(1) On the death of any person, whether he dies domiciled in Ontario or elsewhere, unless the consent in writing of the Treasurer is obtained,

- (a) no bank, trust company, insurance company or other corporation, having its head office, principal place

of business, office from which payments are made, register of transfers, or any place of transfer, in Ontario, shall deliver, assign, transfer or pay, or permit the delivery, assignment, transfer or payment of,

- (i) any property situate in Ontario in which the deceased at the time of his death had any beneficial interest, or
 - (ii) any money payable as a result of death under any contract of insurance either effected, contracted for or applied for by the deceased, or in which the deceased had at the time of his death any interest, where the debt resulting in the payment of such money was situate in Ontario at the date of death of the deceased; and
- (b) no person in Ontario, other than a person acting in the capacity of administering the property passing on the death of the deceased, shall deliver, assign, transfer or pay or permit the delivery, assignment, transfer or payment of any property in which the deceased had at the time of his death any beneficial interest,

provided that this subsection shall not apply to any contract to which clause *h* of section 3 applies. 1939 (2nd Sess.), c. 1, s. 8 (1); 1946, c. 90, s. 6 (1).

Payment of insurance, where no consent necessary.

(2) Notwithstanding anything in this Act, any insurance company may make payment not exceeding \$1,500 due under any contract or contracts of insurance mentioned in subsection 1 without the consent of the Treasurer, and where such payment exceeds \$600 notice of such payment shall be transmitted forthwith to the Treasurer. 1939 (2nd Sess.), c. 1, s. 8 (2); 1946, c. 90, s. 6 (2).

Payment of joint accounts.

(3) Notwithstanding anything in this Act, any one branch of any bank, trust company, insurance company or other corporation or any one person may pay to the survivor one-half or \$500, whichever is the lesser, of the money to which such survivor is entitled in a joint deposit account standing in the name of the deceased and any person, without the consent of the Treasurer, and notice of such payment shall be transmitted forthwith to the Treasurer.

Penalties.

(4) Every bank, trust company, insurance company or other corporation and every other person who fails to comply with this section shall be guilty of an offence and on summary conviction shall, for each offence, be liable to a penalty of

\$1,000 and an amount not exceeding the amount of duty levied on or with respect to the transmission or disposition of any property dealt with in contravention of this section. 1939 (2nd Sess.), c. 1, ss. 8 (3, 4), 44.

10.—(1) No person shall, without the consent in writing of the Treasurer, open or permit the opening of any safety deposit box or other repository in Ontario or remove or permit the removal from Ontario of any such safety deposit box or other repository, or withdraw or permit the withdrawal of anything from any such safety deposit box or other repository where such safety deposit box or other repository stands in the name of the deceased either alone or jointly with any person, or in the name of any member of the family of the deceased either alone or jointly with any person or where the deceased or any member of his family had access or right of access, directly or indirectly, to any such safety deposit box or other repository. Safety deposit boxes.

(2) Every person who fails to comply with this section shall be guilty of an offence and on summary conviction shall, for each offence, be liable to a penalty of \$1,000 and an amount not exceeding the amount of duty levied on or with respect to the transmission or disposition of anything withdrawn in contravention of this section. 1939, (2nd Sess.), c. 1, ss. 9, 44. Penalties.

11.—(1) Every person resident in Ontario at the date of death of the deceased to whom or for whose benefit any property situate in Ontario passes on the death of the deceased shall be liable for the duty levied on the proportion of such property which so passes to him or for his benefit, together with such interest as may be payable thereon. 1940, c. 29, s. 6. Liability for duty and interest.

(2) Every person on whom duty is levied shall be liable for such duty, together with such interest as may be payable thereon. 1939 (2nd Sess.), c. 1, s. 10 (2). Idem.

(3) The duty levied by this Act shall be paid to the Treasurer. 1939 (2nd Sess.), c. 1, s. 11. Duty payable to Treasurer.

12.—(1) Every person to whom or for whose benefit any property situate in Ontario passes on the death of the deceased or to whom there is a transmission or to whom a disposition is made, shall within three months after the death of the deceased, or within such further period as may be allowed by the Treasurer, make and file with the Treasurer an affidavit containing, Filing affidavit.

- (a) an inventory of all the property passing on the death of the deceased to him or for his benefit and particulars of all dispositions made to him and an inventory

of all the property passing on the death of the deceased to or for the benefit of any other person and particulars of all dispositions made to any other person, of which he has knowledge, and such inventories shall show the value of such property and dispositions; and

- (b) his name and the names of all such other persons, his and their places of residence and the degrees of relationship in which he and they stand to the deceased. 1939 (2nd Sess.), c. 1, s. 12; 1940, c. 29, s. 7 (1).

Filing inventory, etc., before probate.

(2) The applicant for probate, letters of administration or other grant, shall at the time of making application make and file with the Treasurer an affidavit containing,

- (a) an inventory of all the property passing on the death of the deceased and particulars of all dispositions and such inventory shall show the value of such property and dispositions; and
- (b) the name of every person who benefits by any property passing on the death of the deceased or to whom a disposition is made, the place of residence of such person and the degree of relationship in which such person stands to the deceased. 1939 (2nd Sess.), c. 1, s. 12 (2); 1946, c. 90, s. 7.

Dispensing with affidavit.

(3) Where an affidavit purporting to be the affidavit required by subsection 2 has been filed within the period mentioned in subsection 1, the Treasurer may, in writing, dispense with the filing of an affidavit by any of the persons to whom subsection 1 applies. 1940, c. 29, s. 7 (2).

Penalty.

(4) Every person in Ontario who makes default in complying with subsection 1 or 2 shall pay to the Treasurer as a penalty the sum of \$10 for each day during which the default continues. 1939 (2nd Sess.), c. 1, s. 12 (3), *amended*.

Non-disclosure, 100 per cent.

13.—(1) Every person in Ontario mentioned in subsections 1 and 2 of section 12 who fails to disclose to the Treasurer any property passing on the death of the deceased or any disposition which such person is required to disclose in accordance with section 12, shall pay to the Treasurer as a penalty an amount equal to 100 per cent of the amount of the duty levied on such property or with respect to the transmission of such property or with respect to such disposition.

Non-disclosure, per diem penalty.

(2) Every person in Ontario mentioned in subsections 1 and 2 of section 12 who fails to disclose to the Treasurer any property passing on the death of the deceased or any disposi-

tion which such person is required to disclose in accordance with section 12, shall pay to the Treasurer as a penalty the sum of \$1 per day for each full \$1,000 in excess of \$1,000 in value of such property or disposition up to \$10 per day for each day of the period commencing with the day on which an affidavit purporting to be the affidavit required by subsection 1 or 2 of section 12 was filed and ending on the day on which it becomes known to the Treasurer that such property or disposition was not so disclosed, provided that the amount of such penalty shall not exceed the value of such property or disposition. 1940, c. 29, s. 8.

14.—(1) The Treasurer may accept security satisfactory Security for duty. to him for the payment of any duty.

(2) The Treasurer may allow interest at a rate not exceeding three per cent per annum upon the amount by which any Interest on cash security. cash security from time to time exceeds the amount of duty that has become payable. 1939 (2nd Sess.), c. 1, s. 14.

15.—(1) Unless otherwise provided, duty shall be due at the death of the deceased and paid within six months there- When duty payable, general. after and if the duty or any part thereof is paid within such period no interest shall be chargeable or payable on the amount so paid. 1939 (2nd Sess.), c. 1, s. 15 (1).

(2) Where any annuity, term of years, life estate or income Annuities, etc. is created by the will of the deceased or by any disposition, the duty for which any person who benefits by such annuity, term of years, life estate or income is liable with respect thereto shall, unless otherwise provided, be paid in a number of equal annual instalments equal to,

(a) the number of years,

(i) of expectancy of life of such person, ascertained as provided in subsection 4 of section 2, or

(ii) for which such annuity, term of years or income is to run,

as the case may be; or

(b) ten,

whichever is the lesser, and such instalments shall commence one year after the death of the deceased. 1949, c. 98, s. 3 (1).

(3) Where the deceased had any interest in expectancy, the duty levied on such interest in expectancy or on the person Interests in expectancy of deceased. to whom there is a transmission or to whom a disposition is made of such interest in expectancy may be paid as provided

by subsection 1 or in the manner provided by subsection 5 or 7.

Interests in expectancy created by deceased.

(4) Where any interest in expectancy is created by the will of the deceased or by any disposition, the duty for which any person who benefits by such interest in expectancy is liable with respect thereto may be paid as provided by subsection 1 or in the manner provided by subsection 5 or 7.

Interests in expectancy in possession.

(5) The duty mentioned in subsections 3 and 4, if not paid within the time provided by subsection 1, shall be due when such interest in expectancy falls into possession and shall be paid within three months thereafter on the basis of the value at the date of falling into possession of the property in respect to which such interest in expectancy existed, and no deduction shall be made for any duty paid on or with respect to any prior interest, income or annuity arising out of the property in respect of which such interest in expectancy exists.

Interests in expectancy before possession.

(6) Notwithstanding subsections 3, 4, 5 and 7, the duty mentioned in subsections 3 and 4 may, with the consent of the Treasurer, be paid after the time provided by subsection 1 and before such interest in expectancy falls into possession and shall be on the basis of the value of such interest in expectancy ascertained as provided in this Act as at the date when such consent is given and no deduction shall be made for any duty paid on or with respect to any prior interest, income or annuity arising out of the property in respect of which such interest in expectancy exists. 1939 (2nd Sess.), c. 1, s. 15 (3-6).

Annuities, etc.

(7) Where any interest in expectancy is an annuity, term of years, life estate or income, the duty for which any person who benefits by such interest in expectancy is liable with respect thereto, shall, if not sooner paid, be paid in a number of equal annual instalments equal to,

(a) the number of years,

(i) of expectancy of life of such person ascertained as provided in subsection 4 of section 2, or

(ii) for which such annuity, term of years or income is to run,

as the case may be; or

(b) ten,

whichever is the lesser, and such instalments shall commence one year after the date when such annuity, term of years, life estate or income commences to be enjoyed. 1949, c. 98, s. 3 (2).

16.—(1) If the duty mentioned in subsection 1 of section 15, or any part thereof, is not paid within the time provided therein, interest at the rate of five per cent per annum from the date of death of the deceased shall be charged and paid on the amount from time to time unpaid. Interest on duty in subs. 1 of s. 15.

(2) If any instalment of duty mentioned in subsection 2 of section 15, or any part thereof, is not paid within the times provided therein, interest at the rate of five per cent per annum from the date when such instalment became payable shall be charged and paid on the amount of such instalment from time to time unpaid. Interest on duty in subs. 2 of s. 15.

(3) If the duty mentioned in subsection 5 of section 15, or any part thereof, is not paid within three months after the interest in expectancy falls into possession, interest at the rate of five per cent per annum from the date of falling into possession shall be charged and paid on the amount from time to time unpaid. Interest on duty in subs. 5 of s. 15.

(4) If any instalment of duty mentioned in subsection 7 of section 15, or any part thereof, is not paid within the times provided therein, interest at the rate of five per cent per annum from the date when such instalment became payable shall be charged and paid on the amount of such instalment from time to time unpaid. 1939 (2nd Sess.), c. 1, s. 16. Interest on duty in subs. 7 of s. 15.

17. Where a general power to appoint any property either by instrument *inter vivos* or by will or both, is given to any person, the duty levied on such property or on the person to whom a disposition is made in respect of such property, shall be paid in the same manner as if the property had been devised or bequeathed to the person to whom such power is given. 1939 (2nd Sess.), c. 1, s. 17. Payment of duty where general power of appointment.

18. Any payment, other than a payment of penalties, made to the Treasurer under this Act shall first be applied on any interest which may be payable on the duty. 1939 (2nd Sess.), c. 1, s. 18. Application of payment on account.

19.—(1) Where any duty is levied on property passing on the death of the deceased, such duty or so much thereof as remains unpaid, with interest thereon, shall be and remain a first lien and charge on such property until paid or a certificate is given under section 39 discharging such property. Lien on property.

(2) The duty levied on any person to whom a disposition is made, with respect to such disposition, shall be and remain a first lien and charge on the property in Ontario at the date of death of the deceased in respect of which the disposition is made where such property is owned at the date of death of the deceased by the person to whom the disposition is made, until Lien with respect to disposition.

paid or a certificate is given under section 39 discharging such property. 1939 (2nd Sess.), c. 1, s. 19 (1, 2).

Caution.

(3) The Treasurer may cause to be registered in the proper registry office or office of land titles, as the case may be, a caution claiming duty levied on any land, mortgage or charge or on any person to whom any disposition in respect of any land, mortgage or charge is made. 1939 (2nd Sess.), c. 1, s. 19 (3); 1940, c. 29, s. 9.

Where no lien.

Rev. Stat.,
ce. 336, 197.

(4) Notwithstanding any provision of this or any other Act but subject to sections 9 and 10 of this Act, section 57 of *The Registry Act* and section 62 of *The Land Titles Act*, any property passing on the death of the deceased or any property in respect of which a disposition is made which has been acquired by or transferred to any person in good faith for valuable consideration without notice, shall not be subject to any lien or charge for duty or interest under this Act. 1939 (2nd Sess.), c. 1, s. 19 (4).

Interest
allowed on
pre-pay-
ments.

20. Where any duty is paid before the time provided for payment thereof, the Treasurer may allow interest upon the amount so paid at a rate not exceeding three per cent per annum from the time of payment until the time so provided for payment. 1939 (2nd Sess.), c. 1, s. 20.

Extension
of time by
Order-in-
Council.

21. The Lieutenant-Governor in Council, upon proof to his satisfaction that payment of duty within the time provided for payment thereof would be unduly onerous, may extend the time for payment to such date and upon such terms as he may deem proper. 1939 (2nd Sess.), c. 1, s. 21.

Duty over-
paid to be
refunded in
certain cases.

22. The Lieutenant-Governor in Council, upon proof to his satisfaction that an overpayment of duty has been made, may refund the amount of such overpayment together with interest thereon at a rate not exceeding three per cent per annum from the date of the making of such overpayment to the date on which such amount is refunded, provided that no such refund shall be made after the expiration of one year from the receipt by the Treasurer of an amount purporting to be in full settlement of the duty. 1939 (2nd Sess.), c. 1, s. 22.

Treasurer
may require
payment to
be made in
succession
duty free
bonds.

23.—(1) Where property passing on the death of the deceased includes bonds, debentures, inscribed stock or other securities of the Province of Ontario issued under any statute of Ontario exempting them from duty, then notwithstanding any declaration or provision made by will or otherwise by the deceased, the Treasurer may require that such bonds, debentures, inscribed stock or other securities or so much thereof as may be necessary shall be delivered to him and applied in pay-

ment of or on account of the duty payable by the persons to whom such bonds, debentures, inscribed stock or other securities pass, and such bonds, debentures, inscribed stock or other securities shall be so applied at their value on the date of death of the deceased.

(2) Where property passing on the death of the deceased includes bonds, debentures, inscribed stock or other securities of the Province of Ontario issued under any statute of Ontario exempting them from duty, and there is no specific bequest thereof, such bonds, debentures, inscribed stock or other securities shall, for the purposes of this Act, be deemed to be distributed among the heirs, legatees, beneficiaries or next-of-kin in the same ratio as they share in the property not specifically bequeathed, and shall be directly chargeable with any indebtedness for which they are pledged as collateral or other security and shall bear *pro rata*, a proportion of the other debts and deductions authorized by subsection 5 of section 2. 1939 (2nd Sess.), c. 1, s. 23.

Indebtedness to be charged to duty free securities.

24.—(1) An executor or trustee, as such, shall not be personally liable for any duty, but an executor, trustee or person in Ontario in whom any property passing on the death of the deceased or any property in respect of which a disposition is made, is at any time after the death of the deceased vested, or who has the management or control thereof, shall not transfer any such property to the person beneficially entitled thereto without deducting therefrom or collecting an amount sufficient to pay the duty and interest payable by such person. 1939 (2nd Sess.), c. 1, s. 24 (1); 1940, c. 29, s. 10 (1).

Executors, etc., not personally liable; to deduct duty.

(2) Every such executor, trustee or person who transfers any such property without so deducting or collecting the amount payable by the person beneficially entitled thereto shall be guilty of an offence and on summary conviction shall be liable to pay to the Treasurer as a penalty an amount equal to 150 per cent of the amount of such duty, provided that any such executor, trustee or person shall not be so guilty or so liable if he so deducts from the property transferred or so collects an amount sufficient to pay the duty and interest payable by the person beneficially entitled thereto as claimed in a statement made pursuant to subsection 1 of section 32 or in any other claim made by the Treasurer or as determined by any court. 1939 (2nd Sess.), c. 1, ss. 24 (2), 44; 1940, c. 29, s. 10 (2).

Penalty.

(3) Any executor or trustee or any person who has any money for the payment of duty, interest or penalties shall be deemed to be a person who has received money for the

Money to be paid over to Treasurer.

Rev. Stat.,
c. 315.

Crown or for which he is accountable to the Crown within the meaning of *The Public Revenue Act*.

Raising of
funds for
duty.

(4) Any person who may be required under the will of the deceased or any trust created by the deceased to pay the duty levied on any property which has come into his possession, or is vested in him or is under his control, or levied on any person to whom there is a transmission of any such property or to whom a disposition of any such property is made, shall, for the purpose of paying such duty or raising the amount of the duty when already paid, have power to raise the amount of such duty and any interest and expense properly incurred by him in respect thereof, by sale, mortgage, lease or pledge, of so much of such property as may be necessary for such purpose. 1939 (2nd Sess.), c. 1, s. 24 (3, 4).

Inquiry by
Treasurer.

25.—(1) The Treasurer may make any examination, investigation or inquiry concerning any fact, practice, transaction or matter, which he in his absolute discretion may consider necessary for the purpose of obtaining information to ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof.

Special
investigator.

(2) Where the Treasurer for any reason is not satisfied that he is in possession of all facts necessary to ascertain whether any duty, interest or penalties are or may be due or payable, he may appoint a special investigator to make on his behalf any examination, investigation or inquiry, which the special investigator in his absolute discretion may consider necessary for the purpose of obtaining information in order that the Treasurer may ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof.

Service of
appointment.

(3) A copy of the appointment of a special investigator may be served on any person at any time.

Further
powers.

(4) The Treasurer or a special investigator shall have power to require any person to give him any information and to produce to him any document, record and thing which he in his absolute discretion may consider necessary for the purpose of obtaining information in order that the Treasurer may ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof. 1939 (2nd Sess.), c. 1, s. 25.

Commis-
sioner.

26.—(1) Where the Treasurer for any reason is not satisfied that he is in possession of all facts necessary to ascertain whether any duty, interest or penalties are or may be due or payable, he may appoint a commissioner to make on his behalf any examination, investigation or inquiry which the

commissioner in his absolute discretion may consider necessary for the purpose of obtaining information in order that the Treasurer may ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof.

(2) A copy of the appointment of a commissioner may be served on any person at any time.

Service of
appointment.

(3) The commissioner shall have the same power to administer oaths, summon and enforce the attendance of witnesses and to compel them to give evidence on oath and to produce any document, record and thing as is vested in any court in civil cases, provided that the commissioner shall not be bound by the provisions of rules of court or of law relating to the service of subpoenas on and of payment of conduct money or witness fees to witnesses.

Further
powers.

(4) A judge of the Supreme Court may, on the application of the commissioner, make an order for the evidence of any person to be taken *de bene esse* or for it to be taken out of Ontario by commission or otherwise in the like circumstances and with the like effect as a similar order may be made in an action in such court.

Evidence
*de bene
esse*.

(5) The proceedings before a commissioner shall be conducted at such place, at such time, in such manner and either in public or otherwise as the commissioner may determine.

Conduct of
proceedings
by commis-
sioner.

(6) A record of the proceedings before a commissioner shall be made in shorthand and shall be transcribed on the order of the Treasurer or the commissioner or, with the consent of the commissioner, on the order of any person concerned upon payment of the reporter's charges therefor.

Record of
proceedings.

(7) The commissioner shall within 30 days after the completion of the examination, investigation or inquiry, or within such further period as the Treasurer may allow, report in writing to the Treasurer. 1939 (2nd Sess.), c. 1, s. 26.

Commis-
sioner's
report.

27. The powers conferred on the Treasurer, any special investigator or any commissioner shall not be restricted in any manner either as to person, as to subject matter of inquiry or otherwise and such powers may be exercised whether or not any duty has been paid and whether or not any duty, interest and penalties are or may be due or payable under this or any Act in force at the date of death of the deceased and no person shall be excused from giving any evidence, answering any question, furnishing any information or producing any document, record or thing on any such examination, investigation or inquiry on the ground that such evidence, question, information, document, record or thing may not be relevant thereto. 1939 (2nd Sess.), c. 1, s. 27.

Powers of
Treasurer,
investigator
and commis-
sioner not to
be restricted.

Duty to
answer and
produce.

28.—(1) Every person shall answer any question, furnish any information and produce any document, record and thing asked or required of him by the Treasurer or a special investigator.

Duty to
give
evidence,
etc.

(2) Every person shall appear and give evidence on oath, answer any question, furnish any information and produce any document, record and thing asked or required of him by a commissioner. 1939 (2nd Sess.), c. 1, s. 28 (1, 2).

Privilege.

(3) No person shall be entitled to claim any privilege in respect of any information, question, document, record or thing. 1939, (2nd Sess.), c. 1, s. 28 (3); 1940, c. 29, s. 11 (1).

No action
against
certain
persons.

(4) No action shall lie against any person to whom subsection 1, 2 or 3 applies for anything done or purported to be done in pursuance of this section. 1940, c. 29, s. 11 (2).

Material
to be fur-
nished to
Treasurer.

29. Every person shall, when requested by the Treasurer, furnish to the Treasurer any material which the Treasurer may require for the purposes of this Act or furnish the Treasurer with written authority to inspect and make copies of any document, record or thing. 1940, c. 29, s. 12.

Destroying,
etc.,
property,
etc.

30. No person in Ontario after being served with a copy of the appointment of a special investigator or of a commissioner shall, without the consent in writing of the Treasurer, destroy, mutilate, deface or alter, or permit the destruction, mutilation, defacement or alteration of, or conceal, or cause or permit the concealment of, or remove, or cause or permit the removal from Ontario of,

- (a) any property passing on the death of the deceased, any property deemed by any Act in force at the date of death of the deceased to pass on the death, or any property in respect of which a disposition is made, or any muniment or evidence of title to or of interest in any such property;
- (b) any property, muniment or evidence of title or interest belonging to or in the possession of any executor or trustee relating to any property passing on the death of the deceased, to any property deemed by any Act in force at the date of death of the deceased to pass on the death, or to any disposition;
- (c) any property, muniment or evidence of title or interest belonging to or in the possession of any person by whom duty may be payable; or
- (d) any books, records, memoranda, documents or papers relating to anything mentioned in this section. 1939, (2nd Sess.), c. 1, s. 29; 1940, c. 29, s. 13.

31.—(1) Where the Treasurer in his absolute discretion believes that any property, security, muniment or evidence of title or interest, safety deposit box or other repository mentioned in this subsection is about to be removed from Ontario or to be dissipated, and is not satisfied that all duty, interest or penalties which are or may be due or payable under this or any Act in force at the date of death of the deceased have been fully paid, he may in writing or by telegram direct any person in Ontario having on deposit, in custody, under control or in safe-keeping in Ontario,

Direction
to hold.

- (a) any property, security, muniment or evidence of title to or of interest in any property passing on the death of the deceased or in any property deemed to pass on the death;
- (b) any property, security, muniment or evidence of title to or of interest in any property in respect of which a disposition is made; or
- (c) any safety deposit box or other repository containing any property passing on the death of the deceased, any property deemed to pass on the death, or any property in respect of which a disposition is made, or any property, security, muniment or evidence of title relating to any property passing on the death of the deceased, any property deemed to pass on the death, or any property in respect of which a disposition is made, in the name of, belonging to or in the possession of any executor or trustee, or any safety deposit box or other repository or any property, security, muniment or evidence of title in the name of, belonging to or in the possession of any person by whom duty may be payable,

to hold such property, security, muniment or evidence of title or interest, safety deposit box or other repository, or such part thereof as is mentioned in such direction until the Treasurer in writing revokes such direction. 1939 (2nd Sess.), c. 1, s. 30 (1); 1940, c. 29, s. 14.

(2) The Treasurer shall, upon giving such direction, proceed with due dispatch in order that the amount of duty, interest and penalties may be ascertained, and unless within one year after giving such direction the Treasurer serves a statement as provided by subsection 1 of section 32 or commences an action under section 35 and gives notice thereof to the person to whom the direction was given, he shall, at the end of such year, revoke such direction.

Duty of
Treasurer
to proceed:
duration of
stop-order.

(3) The Treasurer may at any time modify any such direction. 1939 (2nd Sess.), c. 1, s. 30 (2, 3).

Treasurer
may modify.

Treasurer's
statement.

32.—(1) Where as a result of information obtained by the Treasurer under section 12, 25 or 26 or from any other source or in any other manner it appears that duty, interest or penalties are or may be due and payable, he may serve any person by whom the duty, interest or penalties are claimed to be payable with a statement showing the amount of duty, interest and penalties so claimed to be payable and particulars as to the computation thereof, and if the person by whom duty or interest is claimed to be payable is deceased, the statement may be served on his personal representative.

Idem.

(2) Where service is made under subsection 1, the Treasurer shall also serve a copy of the statement on any of the persons acting in the administration of the property passing on the death of the deceased or of any property in respect of which there is a disposition.

Notice of
appeal.

(3) Unless the duty, interest and penalties claimed in the statement are sooner paid, the applicant shall within one month after being served with the statement, serve the Treasurer with notice of appeal setting out his objection to the statement and the reasons therefor and giving an address in Ontario for service.

Treasurer's
notice of
decision.

(4) The Treasurer shall within one month after the service of the notice of appeal serve the appellant with notice of his decision setting out therein that he confirms or amends the statement and the nature and particulars of any amendment.

Notice of
dissatis-
faction.

(5) If the appellant is dissatisfied with the Treasurer's decision he shall within one month after the service of the notice of decision, serve the Treasurer with notice of dissatisfaction setting out therein any further facts, statutory provisions and reasons in support of his appeal as he may see fit.

Reply.

(6) The Treasurer shall within two months after the service of the notice of dissatisfaction serve the appellant with a reply confirming or amending the amount of duty, interest or penalties set out in the statement or in the notice of decision, and may set out therein the grounds upon which the reply is based.

Payment.

(7) Within one month after the service of the reply the appellant shall pay to the Treasurer such part as the Treasurer may require of the amount of duty and interest claimed to be payable by the appellant which are claimed to have become payable and shall furnish security, satisfactory to the Treasurer, for the payment of any such duty which has not become payable.

(8) Within 10 days after compliance with subsection 7 the appellant shall give security for costs in a sum not less than \$200 and not more than \$1,000 to the satisfaction of the Treasurer and shall also within such period of 10 days file with the local registrar of the Supreme Court for the county or district in which the deceased resided at the date of his death, or where the deceased died resident outside Ontario, with the Registrar of the Supreme Court, true copies of the following documents:

1. The affidavit required by subsection 1 or 2 of section 12 or any statement required under like provisions of any Act as has been filed.
2. Such affidavit of debts as has been filed.
3. Statement of Treasurer.
4. Notice of appeal.
5. Notice of decision.
6. Notice of dissatisfaction.
7. Reply.

(9) The documents so filed shall constitute the record and the proceedings shall thereupon become a cause in the Supreme Court and may be set down or entered for trial by the appellant or by the Treasurer according to the rules of court and shall thereafter be proceeded with in the same manner as an action in such court, and the practice and procedure of such court relating to actions to which His Majesty is a party, including any right of appeal, and the practice and procedure relating to appeals shall thereafter apply to such cause.

(10) Notwithstanding anything in the rules of the Supreme Court, the Treasurer or the appellant may at any time before the conclusion of the hearing of the cause amend the documents served by him once without leave.

(11) The cause shall be styled:

In the matter of *The Succession Duty Act*, and in the matter of the estate of, deceased, and in the matter of, of the of, in the County of, Appellant.

1939 (2nd Sess.), c. 1, s. 31 (1-9).

(12) Every judgment or order given or made in any such cause may be enforced in the same manner and by the like process as a judgment or order given or made in an action in the Supreme Court and if as the result of any order or judgment it appears that the appellant has overpaid the amount of duty, interest or penalties payable by him, the Lieutenant-Governor in Council shall, subject to any order as to costs,

refund the amount of the overpayment to the appellant together with interest thereon at a rate not exceeding three per cent per annum from the date of the making of the overpayment to the date on which the amount is refunded. 1939 (2nd Sess.), c. 1, s. 31 (10); 1940, c. 29, s. 15.

Extension
of time.

(13) Where the deceased dies domiciled outside Ontario or where the appellant resides outside Ontario, the times limited by subsections 3, 5 and 7 shall be extended by the Treasurer for such period as may appear to him to be reasonable and proper, and in such case the period of extension shall be shown in the statement served pursuant to subsections 1 and 2.

Service,
how effected.

(14) Service under this section may be effected personally or by mailing by prepaid registered post addressed to the Treasurer, Parliament Buildings, Toronto, Ontario, and to the appellant addressed to the address set out in his notice of appeal, as the case may be, provided that in the case of a statement to be served under subsections 1 and 2 service may be effected personally or by mailing the statement by prepaid registered post addressed to the person to be served at his last known address. 1939 (2nd Sess.), c. 1, s. 31 (11, 12).

Interpre-
tation.

(15) In this section and in sections 33 and 34, "appellant" means a person on whom a statement referred to in subsection 1 is served. 1939 (2nd Sess.), c. 1, s. 31 (13), *amended*.

Warrant.

33.—(1) If the appellant neglects or refuses to comply with subsection 3, 5 or 7 of section 32, the Treasurer may issue a warrant in the form prescribed by the regulations directed to the sheriff of any county or district in which any property of the appellant is situate for the amount, other than penalties, claimed by the Treasurer to have become payable by the appellant in the statement served pursuant to subsection 1 of section 32, or in the notice of decision served pursuant to subsection 4 of section 32, where by the notice of decision the amount has been amended, or in the reply served pursuant to subsection 6 of section 32, where by the reply the amount has been further amended, together with interest thereon from the date of the issue of the warrant, and for the costs, expenses and poundage of the sheriff, and such warrant shall have the same force and effect as a writ of execution issued out of the Supreme Court.

Non-
compliance
by
appellant.

(2) If the appellant, having complied with subsection 7 of section 32, neglects or refuses to comply with subsection 8 of section 32, he shall be deemed to have admitted all amounts claimed by the Treasurer, and the amount paid pursuant to subsection 7 of section 32 shall be retained by the Treasurer, and the Treasurer may issue a like warrant as is mentioned in subsection 1 for such part of the amount, other than penalties,

claimed by the Treasurer to have become payable by the appellant but which has not been so paid, and the Treasurer may realize any security given by the appellant for the balance of the amount claimed, and if the appellant has paid all the amount claimed by the Treasurer to have become payable, the amount, if any, paid into court as security for costs shall be paid out to the appellant. 1939 (2nd Sess.), c. 1, s. 32.

34.—(1) If the Treasurer fails to comply with subsection 4 or 6 of section 32, the appellant may, by complying with the remaining provisions of section 32, proceed to trial. Default by Treasurer.

(2) The Treasurer may, at any time prior to compliance by the appellant with subsection 7 of section 32, serve on the appellant a notice of discontinuance stating that he withdraws the statement served pursuant to subsection 1 of section 32 and any subsequent proceedings taken by him under section 32, and such withdrawal shall not limit or affect his right to proceed with or to exercise all or any of the powers, rights and remedies, including those mentioned in section 32, conferred by this Act and the statement so withdrawn shall, for the purposes of subsection 2 of section 31, be deemed not to have been served. 1939 (2nd Sess.), c. 1, s. 33 (1, 2). Discontinuance by Treasurer.

(3) Notwithstanding any judgment given or order made in any cause under section 32 or in any action under this Act, if it appears to the Treasurer that any property or disposition is not included in the claim in the proceedings leading to the judgment or order, the Treasurer may proceed with or exercise all or any of the powers, rights and remedies, including those mentioned in section 32, conferred by this Act for the purpose of collecting any duty levied on such property not so included, or levied on any person to whom there is a transmission of any such property, with respect to such transmission, or levied on any person to whom any disposition not so included is made, with respect to such disposition, together with any interest thereon and any penalties payable by the person to whom such property passes or to whom such disposition is made. 1939 (2nd Sess.), c. 1, s. 33 (3); 1940, c. 29, s. 16. Further duty.

35.—(1) In addition to the powers, rights and remedies of the Treasurer under this or any other Act, any duty and interest payable under this Act or any Act in force at the date of death of the deceased, any penalties imposed under section 12 or under similar provisions in force at the date of death of the deceased and any penalties imposed under section 13 or under any Act in force at the date of death of the deceased for failure to disclose property passing on the death of the deceased, property deemed to pass on the death and dis- Recovery by action.

positions, may be recovered with costs by His Majesty represented by the Treasurer by action in any court of competent jurisdiction. 1940, c. 29, s. 17 (1).

Discovery.

(2) In any cause under section 32 or in any action under this Act any person or any officer or servant of any corporation, whether or not the person or corporation is a party to the cause or action, may be examined upon oath and shall make production upon oath of any documents, records or things which may be in the possession or under the control of the person or corporation in the same manner as a party to an action in the Supreme Court may be required to attend for examination and to make production, provided that this subsection shall not apply to the Treasurer or any officer or servant of the Crown. 1939 (2nd Sess.), c. 1, s. 34 (2).

Preservation of remedies.

(3) The use of any of the remedies provided by this section shall not limit or affect the right of the Treasurer to proceed with or to exercise all or any of the powers, rights and remedies conferred by this Act, and any action or proceeding taken under this section shall not affect any lien or priority which theretofore existed under this Act or otherwise. 1940, c. 29, s. 17 (2).

False statements.

36. No person shall make any false statement in any return, instrument, letter, note, telegram or other document required by, filed with, mailed or furnished to the Treasurer or any officer or employee of the Government of Ontario in connection with any of the provisions of this or of any other Act relating to duty, not under oath or affirmation or in a statutory declaration. 1939 (2nd Sess.), c. 1, s. 35.

Preservation of records.

37. No executor or trustee in Ontario having in his custody any books, records, memoranda, documents or papers relating to any property passing on the death of the deceased or to any disposition, where the aggregate value exceeds \$50,000, shall, without the consent in writing of the Treasurer, destroy, mutilate, deface or alter, or cause or permit the destruction, mutilation, defacement or alteration of, or remove or cause or permit the removal from Ontario of, any such books, records, memoranda, documents or papers. 1939 (2nd Sess.), c. 1, s. 36.

Penalty for certain offences.

38. Every person who fails to comply with subsection 1 or 2 of section 28, section 29, section 30, subsection 1 of section 31, section 36 or 37 shall be guilty of an offence and on summary conviction shall, for each offence, be liable to a penalty of not less than \$1,000 and not more than \$10,000 or to imprisonment for a term of not more than two years, or to both fine and imprisonment. 1939 (2nd Sess.), c. 1, ss. 37, 44; 1940, c. 29, s. 18.

39. When an amount purporting to be in full payment of the duty levied on property situate in Ontario or on any person to whom a disposition of such property is made, with respect to such disposition, has been paid together with any interest on such duty, the Treasurer shall, upon request, give a certificate discharging such property from any lien or charge for duty and interest. 1939 (2nd Sess.), c. 1, s. 38. Certificate of discharge.

40. Whether or not any amount purporting to be on account or in full payment of any duty, interest or penalties has been paid, or the Treasurer or any officer or servant of the Crown has at any time received or acknowledged to have received any amount purporting to be on account or in full payment of any duty, interest or penalties due and payable under this or any Act in force at the date of death of the deceased, the Treasurer may proceed with or exercise all or any of the powers, rights and remedies, including those mentioned in section 32, conferred by this Act for the purpose of collecting any duty, interest or penalties which should have been paid under this or any Act in force at the date of death of the deceased. 1939 (2nd Sess.), c. 1, s. 39; 1940, c. 29, s. 19. Treasurer's powers to proceed.

41. Where the material and information furnished to the Treasurer is full and true in all respects and contains all facts necessary for the purposes of this Act, then notwithstanding anything in this or any other Act, no claim shall be made against any person for any duty, interest or penalties for which such person is liable after the expiration of six years from the date of payment to the Treasurer of an amount purporting to be in full settlement of such duty, interest and penalties or of the balance thereof, provided that nothing in this section shall limit or affect the exercise of any of the powers conferred by sections 25, 26, 31 and 40. 1939 (2nd Sess.), c. 1, s. 40. Where no liability for duty after six years.

42. Any of the powers and duties conferred on the Treasurer by this Act may be delegated by him to the Deputy Provincial Treasurer and the other officials of his Department, or any of them, who may act for him in his place and stead. 1939 (2nd Sess.), c. 1, s. 41. Powers may be delegated.

43.—(1) All information and material furnished to or received by the Treasurer or any officer or servant of the Crown under this or any Act relating to duty, shall be confidential. Secrecy.

(2) No person shall, otherwise than in the ordinary course of his duties, communicate any such information to or allow access to or inspection of any such material by any person Communication forbidden.

except officers of such departments of the Government of Canada or of any province of Canada as may be designated by the Lieutenant-Governor in Council.

Exception. (3) Subsection 1 shall not apply to any information or material in the office of the registrar of any surrogate court which was filed with him pursuant to this or any other Act, and subsection 2 shall not apply to any such registrar or any person employed in his office in respect of such information or material.

Penalty. (4) Every person who violates any of the provisions of subsection 2 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$200. 1939 (2nd Sess.), c. 1, s. 44; 1940, c. 29, s. 20.

Regulations. **44.** The Lieutenant-Governor in Council may make regulations,

- (a) prescribing forms and providing for the use thereof;
- (b) prescribing the amount, form and manner in which security shall be furnished;
- (c) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1939 (2nd Sess.), c. 1, s. 43.

Remission of penalties.
Rev. Stat.,
cc. 190, 136. **45.** Notwithstanding *The Judicature Act* and *The Fines and Forfeitures Act*, the penalties imposed by this or any Act in force at the date of death of the deceased shall not be remitted either in whole or in part, except by the Lieutenant-Governor in Council. 1940, c. 29, s. 22.

Special remission of duty. **46.** Where the deceased dies from wounds inflicted, accident occurring or disease contracted within 12 months before death while in the active naval, military or air service of His Majesty, the Treasurer may, if he thinks fit, remit the whole or any part of the duty for which the husband, wife, father, mother, child, son-in-law, daughter-in-law, brother or sister of the deceased is liable. 1939 (2nd Sess.), c. 1, s. 46.

Application of Act. **47.**—(1) Where the deceased dies after the coming into force of this Act, this Act shall apply.

Idem. (2) Where the deceased died on or after the 1st day of July, 1892, and before the coming into force of this Act, the provisions of the Act in force at the date of death of the deceased,

- (a) levying duty on or making subject to or liable for duty any person, property, transmission or disposition;

- (b) affecting or determining the amount and extent of duty;
- (c) creating an obligation by any person to disclose property passing on the death of the deceased, property deemed to pass on the death and dispositions; and
- (d) imposing penalties for failure to file returns or for failure to disclose property passing on the death of the deceased, property deemed to pass on the death and dispositions,

shall apply notwithstanding the repeal of such provisions, but all the other provisions of this Act shall apply.

(3) Nothing in subsections 1 and 2 shall affect the operation of subsection 2 of section 7 or section 49. 1940, c. 29, s. 23 (1), *amended*.

(4) This section shall not limit the exercise of any of the powers conferred by sections 25, 26, 31 and 40. 1939 (2nd Sess.), c. 1, s. 47 (3); 1940, c. 29, s. 23 (2).

48. *The Limitations Act* shall not apply to any action, information or proceeding under this Act, for the recovery of any penalties imposed by this Act or by any Act in force at the date of death of the deceased. 1940, c. 29, s. 24.

49. Notwithstanding anything in *The Succession Duty Amendment Act, 1937*, clause g of subsection 2 of section 6 of *The Succession Duty Act, 1934* shall apply to any policy of insurance which prior to the 8th day of March, 1937, was made payable to the estate of the deceased in trust for the Treasurer for the purpose of providing money necessary to pay the duty on the estate of the deceased. R.S.O. 1937, c. 26, s. 47.



CHAPTER 379

The Summary Convictions Act

1. In this Act, "justice" means a justice of the peace and includes two or more justices sitting and acting together, a magistrate, and every other officer or functionary having, for the purposes of any Act, the authority of a justice of the peace or magistrate. R.S.O. 1937, c. 136, s. 1. ^{Interpretation.}

2. Subject to any special provision otherwise enacted with respect to such offence, act or matter, this Act shall apply to, ^{Application of Act.}

- (a) every case in which any person commits, or is suspected of having committed, any offence or act over which the Legislature has legislative authority and for which such person is liable, on summary conviction, to imprisonment, fine, penalty or other punishment;
- (b) every case in which a complaint is made to a justice in relation to any matter over which the Legislature has legislative authority and with respect to which the justice has authority by law to make an order for the payment of money or otherwise. R.S.O. 1937, c. 136, s. 2.

3.—(1) Except where inconsistent with this Act, Part XV and sections 1028, 1029, 1035A, 1054, 1055, 1121, 1124, 1125, 1131 and 1142 of the *Criminal Code* (Canada) as amended or re-enacted from time to time shall apply *mutatis mutandis* to every case to which this Act applies as if the provisions thereof were enacted in and formed part of this Act. 1949, c. 99, s. 1. ^{Application of Criminal Code. R.S.C. 1927, c. 36.}

(2) Notwithstanding anything in *The Judicature Act*, a case stated under Part XV of the *Criminal Code* (Canada) shall be heard and determined by a judge of the Supreme Court in chambers. R.S.O. 1937, c. 136, s. 3 (2). ^{a Stated cases. Rev. Stat., c. 190.}

4.—(1) Except as provided in subsection 9, every summons issued for a violation of any of the provisions of any Act of the Legislature or of any regulation or order made thereunder or of any municipal or other by-law shall be served either by sending it by prepaid post to the person summoned as herein-after provided or by personal service as hereinafter provided. ^{Service by mail or personal service.}

Address.

(2) Every summons sent by prepaid post shall be addressed,

- (a) where the person summoned is not a corporation, to his last or usual place of abode; and
- (b) where the person summoned is a corporation, to the chief place of business or office or a branch of the corporation; or
- (c) where the person summoned is the holder of a licence or permit issued from the Department of Highways, to the address registered with the Department.

Non-appearance of person summoned.

(3) Except as provided in subsection 6, a summons sent by prepaid post shall have endorsed upon its face in bold-face type a notice that if the person summoned does not appear in person or by counsel or other representative at the time and place indicated in the summons, the summons will be served,

- (a) where the person summoned is not a corporation, by personal service or by leaving it at his place of abode, or in the case of the holder of a licence or permit issued from the Department of Highways, at the address registered with the Department; and
- (b) where the person summoned is a corporation, by serving it upon the mayor, president or other head or the clerk, secretary or like officer of the corporation or the chief officer of a branch thereof, or by leaving it at the chief place of business or office or a branch of the corporation, or where it holds a licence or permit issued from the Department of Highways, at the address registered with the Department,

and that in the event of a conviction, the person summoned may be required to pay the cost of such service.

When deemed not service.

(4) Except as provided in subsection 6, a summons sent by prepaid post shall be deemed not to have been served unless the person summoned appears in person or by his counsel or other representative at the time and place named in the summons.

Time for service for violation of Rev. Stat., c. 167.

(5) Every summons issued for a violation of any of the provisions of *The Highway Traffic Act* shall be served by sending it by prepaid post or by personal service within 10 days of the alleged violation.

Service outside Ontario for violations of Rev. Stat., c. 167.

(6) Where a summons is issued for a violation of any of the provisions of *The Highway Traffic Act* against a person who resides outside of Ontario, whether within or without Canada, the summons shall be deemed to have been duly served when it has been sent by prepaid post to the last or

usual place of abode of the person summoned and every such summons shall have endorsed upon its face in boldface type a notice as follows: "Take notice that the within summons has been issued against you for the offence indicated therein and is served by post upon a non-resident of Ontario in accordance with *The Summary Convictions Act*. If you do not appear in person or by counsel or other representative to make your defence at the time and place indicated in the summons, the charge will be proceeded with in your absence."

(7) Every summons not sent by prepaid post shall be served, Personal service.

(a) where the person summoned is not a corporation, by personal service or by leaving it for the person summoned at his last or usual place of abode, with an inmate thereof apparently not under the age of 16 years, or where he holds a licence or permit issued from the Department of Highways, at the address registered with the Department, with an inmate thereof apparently not under the age of 16 years; or

(b) where the person summoned is a corporation, by serving it upon the mayor, president or other head or the clerk, secretary or like officer of the corporation or the chief officer of a branch thereof, and if any of such persons cannot conveniently be met with, by leaving it at the chief place of business, or office or a branch of the corporation, with an employee of the corporation apparently not under the age of 16 years, or where it holds a licence or permit issued from the Department of Highways, at the address registered with the Department, with an employee of the corporation apparently not under the age of 16 years.

(8) Where a summons sent by prepaid post is deemed not to have been served another summons shall be issued and served in the manner prescribed by subsection 7. Where mailed summons deemed not served.

(9) Where a summons issued under subsection 8 is for a violation of any of the provisions of *The Highway Traffic Act* it shall be served within ten days of the date on which the person is required to appear by the original summons. Time for service of further summons for violation of Rev. Stat., c. 167.

(10) The time for serving a summons under subsection 5 or 9 may be extended at any time by a magistrate on sufficient evidence being adduced that the person named in the summons could not be served within the prescribed time. Extension of time for service.

(11) The sending of a summons by prepaid post may be proved by the affidavit of the person who posted the summons and the affidavit shall state, Proof of sending.

- (a) the place, date and time of posting;
- (b) the name of the person and the address to which the summons was sent; and
- (c) that such address is,
 - (i) to the best of the knowledge and belief of the deponent, the last or usual place of abode of the person summoned, or
 - (ii) where the person summoned is a corporation, the chief place of business or office or a branch of the corporation, or
 - (iii) registered with the Department of Highways as being the address of the person summoned, according to information received from the Department,

and every such affidavit shall be *prima facie* evidence of the facts stated therein. 1949, c. 99, s. 2.

Effect of giving time for payment.

5. Where a conviction or order of a justice adjudges that a fine, penalty or costs be paid, the conviction or order shall not be void nor shall the right to collect any fine or costs or to enforce any penalty under any such conviction or order be impaired because of time having been allowed for the payment of the sum or any part thereof, or because of payment having been received of part of the sum adjudged to be paid, or because of the justice having accepted security for the payment of the same or any part thereof. R.S.O. 1937, c. 136, s. 4.

Payment of prosecutor's costs.

6.—(1) The justice may award and order, in and by the conviction or order, the defendant to pay to the prosecutor or complainant such costs as to the justice seem reasonable, the same not being inconsistent with the fees established by law to be taken on proceedings had by and before justices of the peace.

Payment of defendant's costs.

(2) Where the justice dismisses the information or complaint, he may by the order of dismissal award and order the prosecutor or complainant to pay to the defendant such costs as to the justice seem reasonable, the same not being inconsistent with the fees established by law to be taken on proceedings had by and before justices of the peace.

Recovery of costs.

(3) The sums allowed for costs shall be stated in the conviction or order, and shall be recoverable in the same manner and under the same warrants as a penalty adjudged to be paid by the conviction or order, and such costs shall extend to and include costs and charges of the distress, of the commitment,

and of conveying the defendant to prison, and it shall not be necessary to include them in the amount mentioned in the conviction or order, but the amount thereof in case of a warrant of commitment shall be mentioned on the warrant when it is delivered to the jailer, and in the case of a distress, the person by whom the same are payable shall be entitled on demand to a statement of the amount thereof.

(4) Where there is no penalty to be recovered or where the information or complaint is dismissed, the costs shall be specified in the order and shall be recoverable only by distress and sale of the goods and chattels of the party. Recovery of costs where no penalty.

(5) The costs awarded by the justice to the prosecutor or complainant or to the defendant, as the case may be, may include a counsel fee of such an amount as the justice may deem reasonable but not exceeding \$10. R.S.O. 1937, c. 136, s. 5. Counsel fee.

7.—(1) In any case in which a person is convicted of an offence for which a minimum punishment is not provided and he has not been previously convicted of any offence, the justice may, if he thinks it expedient having regard to the age, character and antecedents of the offender and to the nature of the offence and to any extenuating circumstances, direct that he be released upon suspended sentence. Suspended sentence.

(2) The offender so released may at any time within two years or such shorter period as the justice may fix, be called upon to appear and receive sentence if in the meantime he fails to keep the peace and be of good behaviour. Sentence after suspension.

(3) The justice may, if he sees fit, require a bond with or without sureties for such appearance and keeping of the peace and good behaviour. R.S.O. 1937, c. 136, s. 6. Security from person convicted.

8.—(1) Every justice shall forthwith after making a conviction or order or an order of dismissal transmit to the clerk of the peace for the county or district the conviction or order or order of dismissal together with the information, depositions and other papers relating to the case and any recognizances in respect of which proceedings are required to be taken in the court of general sessions of the peace. Return of convictions.

(2) Where the evidence in any case is taken down in shorthand there shall be no transcription of the evidence unless, Transcription of evidence.

- (a) one of the parties to the case requires a transcription;
- (b) an appeal is taken from the conviction or order; or
- (c) the clerk of the peace requires a transcription to be made. R.S.O. 1937, c. 136, s. 7.

Search
warrant,
when to be
issued.

9.—(1) Where a justice of the peace is satisfied by information upon oath (Form 1) that there is reasonable ground for believing that there is in any building, receptacle or place,

- (a) anything upon or in respect of which an offence against a statute of Ontario has been or is suspected to have been committed; or
- (b) anything which there is reasonable ground to believe will afford evidence as to the commission of any such offence,

he may at any time issue a warrant (Form 2) under his hand authorizing a constable or other person named therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or some other justice for the same territorial division to be by him dealt with according to law.

When to be
executed.

(2) Every search warrant shall be executed between sunrise and sunset, unless the justice by the warrant authorizes the constable or other person to execute it at night.

How things
seized to be
dealt with.

(3) When any such thing is seized and brought before a justice he may detain it, taking reasonable care to preserve it until the conclusion of the investigation, and, if no one is convicted, the justice shall direct the thing to be restored to the person from whom it was taken unless he is authorized or required by law to dispose of it otherwise. R.S.O. 1937, c. 136, s. 8.

When
officers in
charge of
police
station may
take bail.

10.—(1) Where a person charged with an offence against any statute of Ontario, or against any by-law passed under the authority of any such statute, is taken into custody either with or without the warrant of a justice of the peace and is brought into a police station in a city or town at any time during the day or night, the police officer in charge of the station, if he thinks the case a proper one, may take bail without fee from such person by recognizance conditioned for his appearance within two days before the magistrate or other justice in the city or town at the time and place therein mentioned.

Effect of
recognizance
so taken.

(2) The recognizance shall be of equal obligation on the persons entering into the same, and the same proceedings may be taken for the estreating thereof as if it had been taken before a justice of the peace. R.S.O. 1937, c. 136, s. 9.

Record of
recogniz-
ance.

(3) The police officer shall enter in a book the name, residence and occupation of the person entering into the recognizance, and of his surety or sureties, if any, with the condition of the recognizance and the sums acknowledged. R.S.O. 1937, c. 136, s. 10.

(4) The police officer shall make a return to the magistrate or other justice present at the time when and place where the person charged is required to appear of all recognizances taken by him. R.S.O. 1937, c. 136, s. 11.

Return of
recognizance
to be made.

11. In all proceedings for offences against the statutes of Ontario or against any by-laws or regulations passed or made under such statutes, it shall not be necessary for the judge or magistrate to affix his seal to any document, and no document shall be invalidated by reason of the lack of a seal even though it purports to be sealed. R.S.O. 1937, c. 136, s. 12.

Affixing of
seal not
necessary.

12.—(1) Unless it is otherwise provided in the Act under which a conviction takes place or an order is made by a justice for the payment of money or dismissing an information or complaint, any person who thinks himself aggrieved by any such conviction or order or order of dismissal, the prosecutor or complainant as well as the defendant may appeal to the county or district court of the county or district as the case may be in which the cause of the information or complaint arose.

Appeal from
conviction or
order.

(2) No such order or conviction and no order or conviction made on appeal therefrom shall be removed into the Supreme Court by a writ of *certiorari* or motion instead thereof if the defendant has appealed from such order or conviction to any court to which an appeal from such order or conviction is authorized by law.

Certiorari
or motion
therefor not
to be
granted
where
defendant
has
appealed.

(3) Where an appeal is taken to the judge of the county or district court the judge may award reasonable costs to either party including counsel fees and all necessary disbursements. R.S.O. 1937, c. 136, s. 13.

Costs of
appeal.

13.—(1) If the Attorney-General for Canada or the Attorney-General for Ontario certifies that, in his opinion, a judgment or decision of the Supreme Court or a judge thereof upon a stated case or upon an application to quash a conviction made under an Act of Ontario creating an offence punishable on summary conviction before a justice or to discharge a prisoner who is held in custody under such conviction, whether the conviction has been quashed or the prisoner discharged or the application refused, involves a question on the construction of *The British North America Act* (Imperial), and is of sufficient importance to justify an appeal, an appeal at the instance of either Attorney-General or of any party who thinks himself aggrieved shall lie therefrom to the Court of Appeal.

Appeal to
Court of
Appeal.

Imp. 30-31
V., c. 3.

Idem.

(2) If the Attorney-General for Ontario certifies that in his opinion a judgment or decision of a county or district court on an appeal under this Act involves a question of law of sufficient importance to justify an appeal, an appeal shall lie therefrom to the Court of Appeal.

Enforcing conviction or order.

(3) After the decision of the Court of Appeal the justice from whom the appeal was had, or any other justice exercising the same jurisdiction, shall have authority to enforce the order of the court upon the appeal.

Costs.

(4) The defendant shall in no event be ordered to pay any costs on an appeal brought by the Attorney-General for Canada or by the Attorney-General for Ontario under this section. R.S.O. 1937, c. 136, s. 14.

When term of imprisonment to commence.

14. The term of imprisonment in pursuance of any sentence shall, unless otherwise directed in the sentence, commence on and from the day on which the prisoner is lodged in jail thereunder but no time during which the convicted person is out on bail shall be reckoned as part of the term of imprisonment to which he is sentenced. R.S.O. 1937, c. 136, s. 15.

FORM 1

(Section 9 (1))

INFORMATION TO OBTAIN A SEARCH WARRANT

Province of Ontario,
County of

The information of A. B., of, in the said County, taken the day of, in the year, before me, C.D., a Justice of the Peace for the County (or District, etc.) of..... who says that (*insert general description of things to be searched for and offence in respect of which search is made*), and that he has just and reasonable cause to suspect, and suspects, that the said goods and chattels, or some part of them, are contained in the (*dwelling-house, etc.*) of E. F., of, in the said County (or District, etc.) (*here add the causes of suspicion, whatever they may be*). Wherefore (*he*) prays that a search warrant may be granted to him to search the (*dwelling-house, etc.*) of the said E. F., as aforesaid, for the said goods and chattels.

Sworn (*or affirmed*) before me
the day and year first mentioned,
at
in the said County of

C. D.,
J.P. for (*Name of County or District*).
R.S.O. 1937, c. 136, Form 1.

FORM 2

(Section 9 (1))

SEARCH WARRANT

Province of Ontario,
County of

To all or any of the constables and other peace officers in the said County of

Whereas it appears on the oath of A. B., of, that there is reason to suspect that (*describe the things to be searched for and offence in respect of which search is made*) are contained in, at, This is, therefore, to authorize you to enter between the hours of (*as the Justice shall direct*) into the said premises, and to search for the said things and to bring the same before me or some other Justice of the Peace.

Dated at, in the said County of
this day of, in the year

C. D.
J.P. for (*Name of County or District*).
R.S.O. 1937, c. 136, Form 2.



CHAPTER 380

The Surrogate Courts Act

1. In this Act,

Interpretation.

- (a) "administration" includes all letters of administration of the effects of deceased persons, whether with or without the will annexed, and whether granted for general, special or limited purposes;
- (b) "common form business" means the business of obtaining probate or administration where there is no contention as to the right thereto, including the passing of probate and administration through a surrogate court when the contest is terminated, and all business of a non-contentious nature to be taken in a surrogate court in matters of testacy and intestacy not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or administration;
- (c) "county" includes provisional judicial district;
- (d) "matters and causes testamentary" includes all matters and causes relating to the grant and revocation of letters probate of wills or letters of administration;
- (e) "will" includes a testament and all other testamentary instruments of which probate may be granted. R.S.O. 1937, c. 106, s. 1.

SURROGATE COURTS

2. There shall be in and for every county a court of record styled The Surrogate Court of the County (or united Counties or District) of (inserting the name of the county or united counties or district). R.S.O. 1937, c. 106, s. 2.

A surrogate court for each county.

3. Every such court shall be provided with a suitable seal approved by the Lieutenant-Governor. R.S.O. 1937, c. 106, s. 3.

Seal.

4. The sittings of the court shall be held in the county town and shall be presided over by the judge thereof. R.S.O. 1937, c. 106, s. 4.

Sittings.

Power to
enforce
judgments
and orders.

5. Every surrogate court shall have the like powers as is possessed by the Supreme Court of enforcing its judgments and orders in any part of Ontario, and may issue the like writs and process as may be issued out of the Supreme Court and the same shall have the like force and effect as writs and process issued out of the Supreme Court. 1950, c. 81, s. 1, *part*.

Contempt,
etc.

6. Every surrogate court may punish by fine or imprisonment, or by both, for every wilful contempt of or resistance to its process, rules or orders; but the fine shall not in any case exceed \$100, nor shall the imprisonment exceed six months. 1950, c. 81, s. 1, *part*.

Rules of
evidence;

practice and
procedure.

7. The rules of evidence observed in and, except as herein otherwise provided and subject to the surrogate court rules in contentious matters, the practice and procedure of the Supreme Court shall apply to the surrogate courts, and, with respect to all matters within the jurisdiction of the surrogate courts, such courts and the judges and officers thereof respectively, shall have and may exercise all the powers of the Supreme Court and of the judges and officers thereof. 1950, c. 81, s. 1, *part*.

JUDGES

Appoint-
ment.

8. The judge of the surrogate court shall be appointed by the Lieutenant-Governor in Council, and shall hold office during good behaviour and residence in the county for which he is appointed, and may be removed by the Lieutenant-Governor in Council for inability, incapacity or misbehaviour established to his satisfaction. R.S.O. 1937, c. 106, s. 5.

Illness,
absence or
vacancy in
office of
judge.

9.—(1) In case of a vacancy in the office or of the illness or absence, or at the request in writing, of the judge of the surrogate court of any county or district any judge who has authority to preside over any county or district court or any barrister of 10 years standing, on the request in writing of the judge of the surrogate court or of the Attorney-General, may act as judge of the surrogate court. R.S.O. 1937, c. 106, s 6 (1); 1943, c. 28, s. 38.

Fees in
such cases.

(2) Except in the case of a vacancy, where a judge so acts he shall not be entitled to the fees, unless with the consent of the judge of the surrogate court.

When judge-
ship of
surrogate
court
vacated.

(3) Where a judge of a county court who is also judge of the surrogate court vacates his county court judgeship, unless the Lieutenant-Governor in Council otherwise directs, he shall thereby vacate his judgeship of the surrogate court. R.S.O. 1937, c. 106, s. 6 (2, 3).

10. Every judge of a surrogate court, before entering upon the duties of his office, shall take and subscribe the following oath before a person appointed for the purpose by the Lieutenant-Governor:

"I,, do swear that I will truly and faithfully, according to the best of my skill and knowledge, execute the duties, powers and trusts of Judge of the Surrogate Court of the County (or United Counties or District), of
So help me God."

R.S.O. 1937, c. 106, s. 7.

11. The judge of the surrogate court of a county forming part of a county court district may exercise and perform in any part of such district any power or duty assigned to the judge of a surrogate court by any statute of Ontario. R.S.O. 1937, c. 106, s. 8.

REGISTRARS

12. There shall be a registrar for every court who shall be appointed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 106, s. 10.

13. Every registrar, before entering upon the duties of his office, shall take and subscribe the following oath:

"I,, do swear that I will diligently and faithfully execute the office of Registrar of the Surrogate Court of the, and that I will not knowingly permit or suffer any alteration, obliteration or destruction to be made or done, of any will or testamentary paper, or other document or paper committed to my charge. So help me God."

R.S.O. 1937, c. 106, s. 11

14. Every registrar, before entering upon the duties of his office, shall furnish such security as may be required by the Lieutenant-Governor in Council for the due performance of the duties of his office, and the provisions of *The Public Officers Act*, relating to the giving of security, shall apply to such security. R.S.O. 1937, c. 106, s. 12.

15. The registrar shall keep his office in the court house of the county, and a room therein shall be provided for that purpose, and, in the event of there being no available room therein, then at such place in the county town as the judge directs. R.S.O. 1937, c. 106, s. 13 (1).

16. The office of the registrar shall be a depository for all wills of living persons given to him for safe keeping, and the registrar shall receive and keep the same upon payment of such fees and under such regulations as may be prescribed by the surrogate court rules. R.S.O. 1937, c. 106, s. 14.

Preservation
of testamen-
tary instru-
ments,
papers, etc.

17. The registrar shall file and preserve all original wills of which probate or letters of administration with the will annexed are granted, and all other papers used in any matter in his court, subject to such regulations as may be prescribed by the surrogate court rules. R.S.O. 1937, c. 106, s. 15.

Transmis-
sion to
Registrar of
the Supreme
Court of list
of grants, etc.

18. On the third day of every month, or oftener if required by the surrogate court rules, every registrar shall transmit by mail to the Registrar of the Supreme Court a list, in such form and containing such particulars as may be prescribed by such rules, of the grants of probate and administration made by his court up to the last day of the preceding month, and he shall in like manner make a return of every revocation of grant of probate or administration. R.S.O. 1937, c. 106, s. 16; 1946, c. 93, s. 2.

Registrar
not to take
fee for
drawing or
advising on
certain
documents.

19. A registrar shall not for fee or reward draw or advise upon any will, or upon any paper or document connected with the duties of his office, for which a fee is not expressly allowed to him by the tariff. R.S.O. 1937, c. 106, s. 17; 1946, c. 93, s. 3.

JURISDICTION AND POWERS OF SURROGATE COURTS

Testamen-
tary juris-
diction to
be exercised
by the surro-
gate courts.
Rev. Stat.,
c. 190.

20. Subject to *The Judicature Act*, all jurisdiction and authority in relation to matters and causes testamentary, and in relation to the granting or revoking probate of wills and letters of administration of the property of deceased persons, and all matters arising out of or connected with the grant or revocation of grant of probate or administration, shall be vested in the several surrogate courts. R.S.O. 1937, c. 106, s. 18.

No action
for legacy or
distribution
of residue.

21. An action for a legacy or for the distribution of a residue shall not be entertained by any surrogate court. R.S.O. 1937, c. 106, s. 19.

Administra-
tion not to be
granted to
non-resident.

22. Letters of administration shall not be granted to a person not residing in Ontario, but this shall not apply to resealing letters under section 75. R.S.O. 1937, c. 106, s. 20.

Probate or
letters ancil-
lary to per-
sons not
residing in
British
Dominions.

23. Letters probate shall not be granted to a person not resident in Ontario or elsewhere in the British Dominions, unless the person has given the like security as is required from an administrator in case of intestacy, unless in the opinion of the judge, such security should, under special circumstances, be dispensed with or be reduced in amount. R.S.O. 1937, c. 106, s. 21.

24.—(1) The granting of probate or letters of administration shall belong to the surrogate court of the county in which the testator or intestate had at the time of his death his fixed place of abode. Grant, of probate or administration, jurisdiction.

(2) If the testator or intestate had no fixed place of abode in or resided out of Ontario at the time of his death, the grant may be made by the surrogate court of any county in which the testator or intestate had property at the time of his death. Where decedent had no domicile in Ontario.

(3) In other cases the granting of probate or letters of administration shall belong to the surrogate court of any county. R.S.O. 1937, c. 106, s. 22. When any court may make grant.

25. Where the person or one of the persons entitled to apply for probate of a will or for letters of administration is judge of the court having jurisdiction in the matter and he does not renounce, application by him for such probate or letters and any subsequent application in the matter of the estate by him or by any other person may be made to the judge of the surrogate court for an adjoining county who shall have the same authority as to such application and generally in all matters connected with the estate as if he were the judge of the surrogate court having jurisdiction, and he shall be entitled to the same fees, to be paid in stamps if his fees have been commuted, as he would have been entitled to if the application had been made or proceedings had been taken in the court of which he is judge. R.S.O. 1937, c. 106, s. 23. Where surrogate judge is applicant.

26. Letters probate and letters of administration granted by a surrogate court not having jurisdiction to grant the same shall, nevertheless, until revoked, have the same force and effect as if they had been granted by a surrogate court having jurisdiction. R.S.O. 1937, c. 106, s. 24. Effect of probate or letters granted without jurisdiction.

27. Letters probate and letters of administration shall have effect in all parts of Ontario. R.S.O. 1937, c. 106, s. 25. Effect of probate and administration.

28.—(1) The court may cause any question of fact arising in any proceeding therein to be tried by a jury before the judge of the court, and such trial shall take place at some ensuing sittings of the county court for the county, and be conducted in the same manner as other trials by jury in such court, and the parties shall be entitled to their right of challenge, and for all purposes of or incidental to the trial of questions of fact by a jury the court and the judge thereof shall have the same jurisdiction, power and authority in all respects as belong to the county courts and the judges thereof for like purposes. Trial of questions of fact by a jury.

The issue.

(2) The question directed to be tried by a jury shall be reduced into writing in such form as the court directs. R.S.O. 1937, c. 106, s. 26.

Production of instruments purporting to be testamentary.

29.—(1) Whether any suit or other proceeding is or is not pending in the court with respect to any probate or administration, every surrogate court may, on motion or otherwise in a summary way, order any person to produce and bring before the registrar, or otherwise as the court may direct, any paper or writing being or purporting to be testamentary which is shown to be in the possession or under the control of such person.

Examination of persons touching such instruments.

(2) If it is not shown that such paper or writing is in the possession or under the control of such person, but it appears that there are reasonable grounds for believing that he has knowledge of any such paper or writing, the court may direct such person to attend for the purpose of being examined in open court or before the registrar, or such person as the court may direct, or upon interrogatories respecting the same, and to produce and bring in such paper or writing, and such person shall be subject to the like process in case of default in not attending or in not answering questions or interrogatories or not bringing in such paper or writing, as he would have been subject to if he had been a party to a suit in the court and had made such default, and the costs of such motion or other proceeding shall be in the discretion of the court. R.S.O. 1937, c. 106, s. 27.

Removal of proceeding to Supreme Court.

30.—(1) Any contentious cause or proceeding may be removed into the Supreme Court by order of a judge of such court if it is of such a nature and of such importance as to render it proper that the same should be disposed of by the Supreme Court, and the property of the deceased exceeds \$2,000 in value.

Terms.

(2) The judge may impose such terms as to payment of or security for costs or otherwise as he may deem just.

Transmission of judgment to surrogate court.

(3) The judgment of the Supreme Court in any cause or proceeding so removed shall be certified to the registrar of the surrogate court from which the cause or proceeding was removed. R.S.O. 1937, c. 106, s. 28.

APPEALS

Right of appeal.

31.—(1) Any party or person taking part in the proceedings may appeal to the Court of Appeal from any order, determination or judgment of a surrogate court or a judge

thereof in any matter or cause if the value of the property affected by such order, determination or judgment exceeds \$200.

(2) Where the claimant or personal representative having a right of appeal does not appeal from the order, judgment or determination, the Official Guardian or any person beneficially interested in the estate may, by leave of a judge of the Court of Appeal, appeal therefrom. Rights of persons interested to appeal.

(3) The Official Guardian or any person beneficially interested in the estate, may, by leave of a judge of the Court of Appeal, appear and be heard upon any such appeal. Rights of persons interested to be heard at appeal.

(4) Every appeal under this section shall be made by notice of motion served upon all parties interested within 30 days after the date of the judgment, determination or order appealed from, and when the circumstances of any case in the opinion of a judge of the Court of Appeal so warrant, he may permit service to be effected by prepaid registered post. Manner and time of appeal.

(5) The time limited for appeal by this section may be extended by a judge of the Court of Appeal, either before or after the expiry of the time limit. Extension of time for appeal.

(6) The rules of court shall apply to such appeals. 1950, c. 81, s. 3. Rules of court.

PRACTICE

Proofs to Lead Grant

32.—(1) On every application for probate of a will or for letters of administration where the deceased was resident in Ontario at the time of his death, his place of abode at the time of his death shall be made to appear by affidavit of the person or one of the persons making the application, and thereupon and upon proof of the will, or in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1937, c. 106, s. 30 (1). Where deceased resided in Ontario.

(2) Where upon the application for probate of the will of a person who, at the time of the execution of the will, was a member of the forces or was a mariner or seaman at sea or in the course of a voyage, it appears that the witnesses are dead or are incompetent, or that the whereabouts of the witnesses, or either of them, is unknown, the judge of the surrogate court to whom the application is made, may accept such evidence as he may consider satisfactory as to the validity and proper execution of such will notwithstanding anything in this Act or in the rules or regulations of the surrogate court to the contrary. Death or absence of witnesses of will of member of forces or mariner.

Interpre-
tation.

(3) In subsection 2, "members of the forces" means a member of the naval, military or air forces of Canada who, having been placed on active service or called out for training, service or duty, was serving in any of such forces. 1946, c. 93, s. 4 (1).

Probate
not to be
granted
until judge
has proof of
no under-
valuation.

(4) No probate or letters of administration shall be granted unless and until the judge is satisfied that there is no under-valuation of the estate of which probate or administration is being sought.

Issue of
probate
before
valuation.

(5) In cases where there is a necessity for the speedy issue of probate or administration and there is difficulty in ascertaining the true valuation of an estate, the judge may report the same to the Treasurer of Ontario, and such probate or administration may be issued upon the written consent of the Treasurer or someone authorized by him to consent in such cases. R.S.O. 1937, c. 106, s. 30 (3, 4).

Rules and
regulations.

(6) Subject to the approval of the Lieutenant-Governor in Council, the Rules Committee may make rules and regulations for the better carrying out of subsections 4 and 5. 1946, c. 93, s. 4 (2).

Where
deceased had
no fixed
place of
abode in
Ontario.

33. On every application for probate of a will or for letters of administration where the deceased had no fixed place of abode in or resided out of Ontario at the time of his death, the same shall be made to appear by affidavit of the person or one of the persons making the application, and that the deceased died leaving property within the county to the surrogate court of which the application is made, or leaving no property in Ontario, as the case may be, and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1937, c. 106, s. 31; 1950, c. 81, s. 4.

Conclusive-
ness of
affidavits.

34. The affidavit as to the place of abode and property of the deceased under sections 32 and 33, for the purpose of giving a particular court jurisdiction shall be conclusive for the purpose of authorizing the exercise of such jurisdiction, and no grant of probate or administration shall be liable to be recalled, revoked or otherwise impeached by reason that the deceased had no fixed place of abode within the particular county, or had not property therein at the time of his death, but in case it is made to appear to the judge of a surrogate court before whom the application is pending, that the place of abode of the deceased, or the situation of his property, has not been correctly stated in the affidavit, the judge may stay all further proceedings and make such order as to the costs of the proceedings before him as he may deem just. R.S.O. 1937, c. 106, s. 32.

35. Where application is made for letters of administration by a person not entitled to the same as next of kin of the deceased, an order shall be made requiring the next of kin, or others having or pretending interest in the property of the deceased, resident in Ontario, to show cause why the administration should not be granted to the person applying therefor; and if neither the next of kin nor any person of the kindred of the deceased resides in Ontario, a copy of the order shall be served or published in the manner prescribed by the surrogate court rules. R.S.O. 1937, c. 106, s. 33.

Proof, etc.,
requisite for
obtaining
grant to
party not
next of kin
to intestate.

36.—(1) If the next of kin, usually residing in Ontario and regularly entitled to administer, is absent from Ontario, the court having jurisdiction may grant a temporary administration to the applicant, or to such other person as the court thinks fit, for a limited time, or subject to be revoked upon the return of such next of kin to Ontario.

Temporary
administra-
tion in
certain cases.

(2) The administrator so appointed shall give such security as the court directs, and shall have all the rights and powers of a general administrator, and shall be subject to the immediate control of the court. R.S.O. 1937, c. 106, s. 34.

Security to
be given.

37. Subject to subsection 3 of section 75, a notarial will made in the Province of Quebec may be admitted to probate without the production of the original will upon filing a notarial copy thereof together with the other proper proofs to lead grant. R.S.O. 1937, c. 106, s. 35.

Quebec
notarial
wills.

Notice of Application

38. Notice of every application for the grant of probate or administration shall be transmitted by the registrar by registered post to the Registrar of the Supreme Court by the next post after the application, and the notice shall specify the name and description or addition, if any, of the deceased, the time of his death, and the place of his abode at his decease, as stated in the affidavits made in support of the application, and the name of the person by whom the application is made, and such other particulars as may be prescribed by the surrogate court rules. R.S.O. 1937, c. 106, s. 36; 1946, c. 93, s. 5.

Notice to
Registrar of
the Supreme
Court of
applications.

39. Unless upon special order of the court, no probate or administration shall be granted until the registrar has received a certificate under the hand of the Registrar of the Supreme Court that no other application appears to have been made in respect of the property of the deceased, which certificate the Registrar of the Supreme Court shall forward as soon as may be to the registrar. R.S.O. 1937, c. 106, s. 37; 1946, c. 93, s. 6.

Certificate
from Regis-
trar of the
Supreme
Court.

Registrar of
the Supreme
Court to file
notices.

40. All notices in respect of applications shall be filed and kept by the Registrar of the Supreme Court. R.S.O. 1937, c. 106, s. 38; 1946, c. 93, s. 7.

Duty of
Registrar of
the Supreme
Court with
reference to
notices.

41. The Registrar of the Supreme Court shall, with reference to every such notice, examine all notices of such applications received from the several registrars, so far as appears to be necessary to ascertain whether or not application for probate or administration in respect of the property of the deceased has been made in more than one surrogate court, and he shall communicate with the registrars as occasion may require in relation to such applications. R.S.O. 1937, c. 106, s. 39; 1946, c. 93, s. 8.

Where
application
made to
more than
one surro-
gate court.

42.—(1) Where it appears by the certificate of the Registrar of the Supreme Court that application for probate or administration has been made to two or more surrogate courts, the judges of such courts respectively shall stay proceedings therein, leaving the parties to apply to a judge of the Supreme Court for such direction in the matter as he may deem necessary. R.S.O. 1937, c. 106, s. 40 (1); 1946, c. 93, s. 9 (1).

Judgment as
to what court
has juris-
diction.

(2) On application made to such judge he shall inquire into the matter in a summary way and adjudge and determine what surrogate court has jurisdiction.

Order as to
costs.

(3) The judge may order costs to be paid by any of the applicants, and the order shall be enforced by the Supreme Court. R.S.O. 1937, c. 106, s. 40 (2, 3).

Judge's
decision to
be final.

(4) The determination of the judge shall be final and conclusive, and the Registrar of the Supreme Court shall, without delay, transmit a certified copy of the judge's order to the registrars of the surrogate courts wherein such applications were made. R.S.O. 1937, c. 106, s. 40 (4); 1946, c. 93, s. 9 (2).

Caveats

Lodging.

43. Caveats against the grant of probate or administration may be lodged with the Registrar of the Supreme Court or with the registrar of any surrogate court. R.S.O. 1937, c. 106, s. 41; 1946, c. 93, s. 10.

Notice of
caveats.

44. Upon a caveat being lodged, the registrar shall without delay send a copy thereof to the Registrar of the Supreme Court to be entered among the caveats lodged with him, and, upon notice of an application being received from the registrar of a surrogate court under section 38, the Registrar of the Supreme Court shall without delay forward to him notice of any caveat that has been so lodged touching such application,

and the notice shall accompany or be embodied in the certificate mentioned in section 39. R.S.O. 1937, c. 106, s. 42; 1946, c. 93, s. 11.

Proof of Wills in Solemn Form

45. Where proceedings are taken for proving a will in solemn form, or for revoking the probate of a will on the ground of the invalidity thereof, or where in any other contentious cause or matter the validity of a will is disputed, all persons having or pretending to have any interest in the property affected by the will may, subject to the provisions of this Act and to the surrogate court rules, be summoned to see the proceedings, and may be permitted to become parties, subject to such rules and to the discretion of the court. R.S.O. 1937, c. 106, s. 43.

Citation of persons interested.

Executors

46. The court having jurisdiction may summon any person named executor of any will to prove, or refuse to prove, such will, and to bring in inventories and to do every other thing necessary or expedient concerning the same. R.S.O. 1937, c. 106, s. 44.

Citation to prove or renounce.

Imp. 21 Hen. 8, c. 5, s. 6.

47. When an executor survives the testator, but dies without having taken probate, and when an executor is summoned to take probate, and does not appear his right in respect of the executorship shall wholly cease, and the representation to the testator, and the administration of his property, shall and may, without any further renunciation, go, devolve, and be committed in like manner as if such person had not been appointed executor. R.S.O. 1937, c. 106, s. 45.

Consequences of failure to appear.

Imp. 21 and 22, V., c. 95, s. 16.

Infant Executors

48. Where an infant is sole executor, administration with the will annexed shall be granted to the guardian of the infant or to such other person as the court shall think fit, until the infant has attained the full age of 21 years, at which time, and not before, probate of the will may be granted to him. R.S.O. 1937, c. 106, s. 46.

Where an infant sole executor.

Imp. 38, Geo. III, c. 87, s. 6.

49. The person to whom such administration is granted shall have the same powers as an administrator has by virtue of an administration granted to him *durante minore aetate* of the next of kin. R.S.O. 1937, c. 106, s. 47.

Power of administrator in such case.

Imp. 38, Geo. 3, c. 87, s. 7.

Copies of Wills

50. An official copy of the whole or any part of a will or an official certificate of the grant of any letters of administra-

Official copies.

tion may be obtained from the registrar on payment of the prescribed fees. R.S.O. 1937, c. 106, s. 48.

Administration Pendente Lite

When and
by whom
granted.

51. Pending an action touching the validity of the will of any deceased person, or for obtaining, recalling or revoking any probate or grant of administration, the surrogate court having jurisdiction to grant administration in the case of intestacy may appoint an administrator of the property of the deceased person, and the administrator so appointed shall have all the rights and powers of a general administrator other than the right of distributing the residue of the property; and every such administrator shall be subject to the immediate control and direction of the court, and the court may direct that such administrator shall receive out of the property of the deceased such reasonable remuneration as the court may deem proper. R.S.O. 1937, c. 106, s. 49.

POWERS AND DUTIES OF EXECUTORS, ADMINISTRATORS AND GUARDIANS

Generally

To what persons admini-
stration shall
be granted.
Imp. 31,
Edw. 3, St.
1, c. 11, 21;
Hen. 8, c. 5,
s. 2.

52.—(1) Subject to subsection 3, where a person dies intestate or the executor named in his will refuses to prove the same, administration of the property of the deceased may be committed by the surrogate court having jurisdiction, to the husband, or to the wife, or to the next of kin, or to the wife and next of kin, as in the discretion of the court seems best, and where more persons than one claim the administration as next of kin who are equal in degree of kindred to the deceased, or where only one desires the administration as next of kin where there are more persons than one of equal kindred, the administration may be committed to such one or more of such next of kin as the court may think fit.

Appointment
at request
of parties
interested.

(2) Subject to subsection 3, where a person dies wholly intestate as to his property, or leaving a will affecting property, but without having appointed an executor thereof, or an executor willing and competent to take probate and the persons entitled to administration, or a majority of such of them as are resident in Ontario, request that another person be appointed to be the administrator of the property of the deceased, or of any part of it, the right which such persons possessed to have administration granted to them in respect of it shall belong to such person.

General
power as to
appointment
of adminis-
trator under
special cir-
cumstances.

(3) Where a person dies wholly intestate as to his property, or leaving a will affecting property but without having appointed an executor thereof willing and competent to take probate, or where the executor was at the time of the death

of such person resident out of Ontario, and it appears to the court to be necessary or convenient by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the property of the deceased, or of any part of such property, other than the person who if this subsection had not been enacted would have been entitled to the grant of administration, it shall not be obligatory upon the court to grant administration to the person who if this subsection had not been enacted would have been entitled to a grant thereof, but the court may appoint such person as the court thinks fit upon his giving such security as the court directs, and every such administration may be limited as the court thinks fit.

(4) A trust company may be appointed as administrator under subsection 2 or 3, either alone or jointly with another person. R.S.O. 1937, c. 106, s. 50.

Appoint-
ment of
trust
company.

53. After a grant of administration no person other than the administrator or executor shall have power to sue or prosecute any action, or otherwise act as executor of the deceased as to the property comprised in or affected by such grant of administration, until such administration has been recalled or revoked. R.S.O. 1937, c. 106, s. 51.

After grant
of adminis-
tration no
person to
act as
executor.

54. A person entitled to letters of administration to the property of a deceased person shall be entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate. R.S.O. 1937, c. 106, s. 52.

Administra-
tion limited
to personal
estate.

Inventories

55.—(1) The person applying for a grant of probate or administration shall, before the same is granted, make or cause to be made and delivered to the registrar a true and perfect inventory verified by the oath of the applicant of all the property which belonged to the deceased at the time of his death.

Filing
inventory.
Imp. 21,
Hen. 8,
c. 5, s. 4.

(2) When after the grant of probate or letters of administration any property belonging to the deceased at the time of his death and not included in such inventory is discovered by the executor or administrator, he shall, within six months thereafter, make and deliver to the registrar an inventory, duly verified by oath, of such newly discovered property.

Further
inventory of
subsequently
discovered
property.

(3) Where the application or grant is limited to part only of the property of the deceased it shall be sufficient to set forth in such inventory the property intended to be affected by such application or grant. R.S.O. 1937, c. 106, s. 53.

Inventory in
case of
limited
grant.

Fees on
increased
valuation.

56. Where after a grant has issued out of the surrogate court the value of the estate has been increased for succession duty purposes, the executor or administrator shall forthwith pay to the registrar of the surrogate court from which the grant issued the additional fees that would have been payable at the time of the issue had the value of the estate been placed at the amount to which it has been so increased, and the registrar shall account for such additional fees in the same manner as if the same had been paid at the time of the issue of the grant. R.S.O. 1937, c. 106, s. 54.

Executor Renouncing

Conse-
quences
upon execu-
tor renounc-
ing.

57. Where a person renounces probate of the will of which he is appointed an executor his rights in respect of the executorship shall wholly cease, and the representation to the testator and the administration of his property shall without any further renunciation, go, devolve and be committed in like manner as if such person had not been appointed executor. R.S.O. 1937, c. 106, s. 55.

Sureties

Bonds.

58. Except where otherwise provided by law, every person to whom a grant of administration, including administration with the will annexed, is committed shall give a bond to the judge of the surrogate court by which the grant is made, to enure for the benefit of the judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose, with a surety or sureties as may be required by the judge, conditioned for the due collecting, getting in, administering and accounting for the property of the deceased, and the bond shall be in the form prescribed by the surrogate court rules, and in cases not provided for by the rules, the bond shall be in such form as the judge may by special order direct. R.S.O. 1937, c. 106, s. 56.

When secur-
ity not
required.

59. It shall not be necessary for the Government of Ontario or any department thereof or any Provincial Commission or Board created under any Act of the Legislature to give any security for the due performance of its duty as executor, administrator, trustee, committee, or in any other office to which it may be appointed by order of the court or under any act. R.S.O. 1937, c. 106, s. 57.

Amount of
security.

60.—(1) The bond shall be in a penalty of double the amount under which the property of the deceased has been sworn, and the judge may direct that more than one bond be given so as to limit the liability of any surety to such amount as the judge deems proper.

(2) The judge may at any time under special circumstances reduce the amount of or dispense with the bond. 1950, c. 81, s. 5. Power to reduce amount.

61. The judge on application made in a summary way, and on being satisfied that the condition of the bond has been broken, may order the registrar to assign the bond to some person to be named in the order, and such person shall thereupon be entitled to sue on the bond in his own name, as if the same had been originally given to him, and shall recover thereon as trustee for all persons interested the full amount recoverable in respect of any breach of the condition of the bond. R.S.O. 1937, c. 106, s. 59. Power of surrogate courts as to assignment of bonds.

62. The oaths to be taken by executors, administrators and guardians, and the bonds or other security to be given by administrators and guardians, and probates, letters of administration and letters of guardianship shall require the executor, administrator or guardian to render a just and full account of his executorship, administration or guardianship only when thereunto lawfully required. R.S.O. 1937, c. 106, s. 60. Accounts to be rendered.

63.—(1) Where a surety for an administrator or guardian dies or becomes insolvent or where for any other reason the security furnished by an administrator or guardian becomes inadequate or insufficient, the judge may require other or additional security to be furnished, and if it is not furnished as directed by the judge he may revoke the grant of administration or letters of guardianship. New or additional security in certain cases.

(2) The order may be made by the judge *sua sponte* or on the application of any person interested. R.S.O. 1937, c. 106 s. 61. Order by judge *sua sponte* or on application.

64.—(1) Where a surety for an administrator or guardian desires to be discharged from his obligation, or where an administrator or guardian desires to substitute other security for that furnished by him, the judge may allow other security to be furnished in lieu of that of such surety or of the security so furnished, on such terms as to the judge may seem proper, and may direct that, on the substituted security being furnished and, if the judge so directs, the accounts of the administrator or guardian being passed, the surety or sureties be discharged. Substitution of security.

(2) The application may be made *ex parte* or on such notice as the judge directs. R.S.O. 1937, c. 106, s. 62. How application made.

65. Where an executor or administrator has passed his final account and has paid into court or distributed the whole Cancellation of security.

of the property of the deceased which has come to his hands, the judge may direct the bond or other security furnished by the executor or administrator to be delivered up to be cancelled. R.S.O. 1937, c. 106, s. 63.

Cancellation
of bond of
administra-
tor in
distribution
of estate.

66. Where an executor or administrator has produced evidence to the satisfaction of the judge that the debts of the deceased have been paid and the residue of the estate duly distributed, the judge may make an order directing the bond or other security furnished by the executor or administrator to be delivered up to be cancelled, but where an infant was or is entitled to any part of the estate under such distribution the order shall not be made until after such notice as the judge may direct has been given to the Official Guardian, and where any person who is a patient in an institution under *The Mental Hospitals Act* was or is entitled to any part of the estate under such distribution, the order shall not be made until after like notice has been given to the Public Trustee, R.S.O. 1937, c. 106, s. 64.

Rev. Stat.,
c. 229.

Contestation of Claims Against Estate

Notice of
contestation
of claim
against
estate.

67.—(1) Where a claim or demand is made against the estate of a deceased person, or where the personal representative has notice of such claim or demand, he may serve the claimant with a notice in writing that he contests the same in whole or in part, and, if in part, stating what part and also referring to this section. R.S.O. 1937, c. 106, s. 65 (1).

Application
for order
allowing
claim.

(2) Within 30 days after the receipt of such notice of contestation, or within three months thereafter if the judge of the surrogate court on application so allows, the claimant may, upon filing with the registrar a statement of his claim verified by affidavit and a copy of the notice of contestation, apply to the judge of the surrogate court for an order allowing his claim and determining the amount of it, and the judge shall hear the parties and their witnesses and shall make such order upon the application as he may deem just, and if the claimant does not make such application he shall be deemed to have abandoned his claim and it shall be forever barred. R.S.O. 1937, c. 106, s. 65 (2); 1950, c. 81, s. 6 (1).

Claim within
jurisdiction
of division
court.

(3) Where the claim is within the jurisdiction of the division court, an application for the extension of time referred to in subsection 2 and the application for the order shall be made to a judge of a division court in which an action for the recovery of the claim might be brought, and the application for the order shall be heard by the judge at the sittings of such court, but where the claimant and the personal representative consent, the applications may be made to the judge of the surrogate court. 1947, c. 105, s. 1.

(4) Not less than seven days notice of the application shall be given to the personal representative, and where the application is to be made to the judge of the surrogate court, shall also be given to the Official Guardian if infants are concerned, and to such, if any, of the persons beneficially interested in the estate as the judge may direct. Notice in such cases.

(5) Where the application is made to the judge of the surrogate court, in addition to the persons to whom notice has been given, any other person who is interested in the estate shall have the right to be heard and to take part in the proceedings. Right of persons interested to be heard.

(6) Where the claim, or the part of it which is contested, amounts to \$800 or more, instead of proceeding as provided by this section, the judge shall, on the application of either party, or of any of the parties mentioned in subsection 5, direct the creditor to bring an action for the recovery or the establishment of his claim, on such terms and conditions as the judge may deem just, and provided that the claimant and the personal representative may consent to have the trial before the judge of the surrogate court and in that case the trial shall take place and be disposed of before the surrogate court judge under this section. Consent to jurisdiction of surrogate court in certain cases.

(7) Where the claim is within the jurisdiction of the division court the fees and costs shall be according to the tariff of that court and in other cases the fees payable to the judge of the surrogate court and to the registrar shall be the same as are allowed on an audit in an estate of a value equal to the amount of the claim or so much thereof as is contested, and the fees to be allowed to counsel or solicitors shall be fixed and determined by the surrogate judge having regard to the amount involved and the importance of the contest. R.S.O. 1937, c. 106, s. 65 (4-7). Fees and costs when claim within division court jurisdiction.

(8) This section shall apply, notwithstanding that the claim or demand is not presently payable, and that, for that reason, an action for the recovery of it could not be brought. Claims not presently payable.

(9) The judge may order the issue of a commission to take the testimony of any person or party residing out of Ontario. Application for order allowing commission.

(10) The judge may make an order for the taking of the evidence of any material and necessary witness, residing in Ontario, who is sick, aged or infirm or is about to leave Ontario *de bene esse* and provide to whom notice of such examination is to be given. Judge may make an order appointing a person to take testimony.

(11) A subpoena may be issued to enforce the attendance of witnesses to give evidence on any proceeding under this section. R.S.O. 1937, c. 106, s. 65 (10-13). Right to issue subpoenas.

Rules of
Supreme
Court shall
apply.

(12) The rules of the Supreme Court so far as they are applicable shall apply to every application for such commission or order for examination, the issue, execution, enforcement and return thereof and the judge shall have power to award costs of all such proceedings according to the tariff in force from time to time for like services in county courts. R.S.O. 1937, c. 106, s. 65 (14); 1944, c. 58, s. 11.

Permission
for enforce-
ment of
judgment.

(13) Where a claim is established under this section no proceedings shall be taken to enforce payment of the same without the permission of the judge.

Enforce-
ment of
judgment.

(14) Where permission to enforce payment of a claim is given the order shall be filed in the county court and an execution shall issue as upon a judgment of that court and an order for payment of costs may be entered in the same way. R.S.O. 1937, c. 106, s. 65 (15, 16).

Notice of
contestation
of unliqui-
dated claims.

68.—(1) Where any claim or demand not within the meaning of subsection 1 of section 67 is made against the estate of a deceased person, or where the personal representative has notice or knowledge of the claim or demand, he may serve the claimant with the notice prescribed in the said subsection. 1946, c. 93, s. 12, *part*.

Application
by claimant
for order for
directions.

(2) Within the time limits mentioned in subsection 2 of section 67 the claimant may, upon filing with the registrar a statement of his claim verified by affidavit and a copy of the notice of contestation, apply to the judge of the surrogate court for an order for directions as to the disposition of the claim or demand, and if the claimant does not make the application he shall be deemed to have abandoned his claim, and it shall be forever barred. 1946, c. 93, s. 12, *part*; 1950, c. 81, s. 7 (1).

Notice in
such cases.

(3) Not less than seven days notice of the application shall be given to the personal representative and to the Official Guardian if infants are concerned, and to such, if any, of the persons beneficially interested in the estate as the judge may direct. 1947, c. 105, s. 2, *part*.

Powers of
judge.

(4) The judge shall make such order upon the application for directions as he may deem just and, in particular but without limiting the generality of the foregoing, he may,

- (a) direct the claimant to bring an action for the recovery or establishment of his claim on such terms and conditions as he may deem just; and
- (b) where the claim or demand is not presently recoverable, may prescribe the time after which the claimant shall proceed pursuant to the directions.

(5) By consent of the claimant and personal representative *Idem.* the judge may direct that the trial shall take place and be disposed of before the surrogate court judge.

(6) When an order is made under subsection 4, subsections 9, 10, 11 and 12 of section 67 shall apply. 1946, c. 93, s. 12, *part.* Application of parts of s. 67.

(7) If the personal representative does not appeal from an order made under subsection 2 or 4, the Official Guardian or any person beneficially interested in the estate may, by leave of a judge of the Supreme Court, appeal therefrom. Right of persons interested to appeal.

(8) Where the claimant or the personal representative appeals from an order made under subsection 2 or 4, the Official Guardian and any person beneficially interested in the estate may, by leave of the court which hears the appeal, appear and be heard. 1947, c. 105, s. 2, *part.* Right of persons interested to be heard on appeal.

69. Where the personal representative of any person claims the ownership of any personal property not exceeding in value \$800 and his claim is disputed by any other person, such dispute may be determined in a summary manner and section 67 shall apply *mutatis mutandis*. R.S.O. 1937, c. 106, s. 66. Summary determination of disputes as to ownership.

70.—(1) *The Limitations Act* shall not affect the claim of any person against the estate of a deceased person where notice of the claim giving full particulars of the claim and verified by affidavit, is filed with the executor or administrator of the estate at any time prior to the date upon which the claim would be barred by *The Limitations Act*, provided that where no executor or administrator has been appointed, such notice may be filed in the office of the registrar of the surrogate court of the county where such deceased person resided at the date of his death. Rev. Stat., c. 207 not to apply in certain cases.

(2) Where the claim of any person against any other person would be barred by *The Limitations Act* at any time within three months after the death of the person having the claim, the claim shall for all purposes be deemed not to be barred until three months after the date of such death. R.S.O. 1937, c. 106, s. 67. Special provision.

Accounts of Executor, Administrator or Guardian

71. An executor, who is also a trustee under the will, may be required to account for his trusteeship in the same manner as he may be required to account in respect of his executorship R.S.O. 1937, c. 106, s. 68. Accounting by executor trustee.

Effect of approval of accounts by surrogate judge.

72.—(1) Where an executor, administrator, trustee under a will of which he is an executor, or a guardian, has filed in the proper surrogate court an account of his dealings with the estate, and the judge has approved thereof, in whole or in part, if he is subsequently required to pass his accounts in the Supreme Court such approval, except so far as mistake or fraud is shown, shall be binding upon any person who was notified of the proceedings taken before the surrogate judge, or who was present or represented thereat, and upon every one claiming under any such person.

Passing accounts by guardians.

(2) A guardian appointed by the surrogate court may pass the accounts of his dealings with the estate before the judge of the court by which letters of guardianship were issued.

Powers of judge on passing accounts.

(3) The judge, on passing the accounts of an executor, administrator or such a trustee, shall have jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property which the deceased was possessed of or entitled to, and the administration and disbursement thereof in as full and ample a manner as may be done in the Master's office under an administration order, and, for such purpose, may take evidence and decide all disputed matters arising in such accounting subject to appeal.

Further powers.

(4) The judge, on passing any accounts under this section, shall have power to inquire into any complaint or claim by any person interested in the taking of the accounts, of misconduct, neglect, or default on the part of the executor, administrator or trustee, occasioning financial loss to the estate or trust fund, and the judge, on proof of such claim, may order the executor, administrator or trustee, to pay such sum by way of damages or otherwise, as he may deem proper and just, to the estate or trust fund; provided that any order made under this subsection shall be subject to appeal.

May order trial and give directions as to pleadings, etc.

(5) The judge may order the trial of an issue of any complaint or claim under subsection 4, and in such case he shall make all necessary directions as to pleadings, production of documents, discovery and otherwise in connection with the issue.

Removal to Supreme Court.

(6) Any person interested in the taking of such accounts, or any executor, administrator or trustee against whom any complaint or claim has been made on the passing of such accounts, as provided in subsection 4, may apply to a judge of the Supreme Court for an order removing the proceedings to the Supreme Court, if in his opinion the claim is of such a nature or of such importance as to render it proper that it should be disposed of by the Supreme Court, and for the purpose of making such application, the applicant shall be

entitled to an adjournment of the proceedings in the surrogate court.

(7) The persons interested in the taking of such accounts or the making of such inquiries shall, if resident within Ontario, be entitled to not less than seven days notice thereof, and, if resident out of Ontario, shall be entitled to such notice as the judge shall direct.

Notice to persons interested.

(8) Where an infant or a person of unsound mind is interested, such notice may be served on the Official Guardian, except in the case of a person confined in an institution under *The Mental Hospitals Act*, when such notice shall be served on the Public Trustee and unless such notice is so given the infant or person of unsound mind shall not be bound by the passing of the accounts.

Where person under disability interested.

Rev. Stat., c. 229.

(9) Where by the terms of a will or other instrument in writing under which such an executor, administrator or trustee acts, real or personal property or any right or interest therein, or proceeds therefrom have heretofore been given, or are hereafter to be vested in any person, executor, administrator or trustee for any religious, educational, charitable or other purpose, or are to be applied by him to or for any such purpose, notice of taking the accounts shall be served upon the Public Trustee.

Notice of taking accounts to be served on Public Trustee.

(10) Where a person has died intestate in Ontario and administration has been granted to some person, not one of the next-of-kin, and it appears to be doubtful whether the intestate left any next-of-kin him surviving or that there are no known next-of-kin resident in Ontario, notice of taking the accounts shall be served upon the Public Trustee.

Where person to whom administration granted is not next-of-kin.

(11) Where accounts submitted to the judge of a surrogate court are of an intricate or complicated character, and in the opinion of the judge require expert investigation, the judge may appoint an accountant or other skilled person to investigate and to assist the judge in auditing the accounts. R.S.O. 1937, c. 106, s. 69.

Appointment of expert on examination of accounts.

73.—(1) An executor or an administrator shall not be required by any court to render an account of the property of the deceased, otherwise than by an inventory thereof, unless at the instance or on behalf of some person interested in such property or of a creditor of the deceased, nor shall an executor or administrator be otherwise compellable to account before any judge.

At whose instance executors or administrators compellable to account. Imp. 1 Jac. II, c. 17, s. 6.

(2) This section shall apply notwithstanding any provision to the contrary of any bond or security heretofore given by the executor or administrator. R.S.O. 1937, c. 106, s. 70.

Application.

ESTATES OF SMALL VALUE

Fees where
estate does
not exceed
\$400.

Rev. Stat.,
c. 378.

Where pro-
perty does
not exceed
\$1,000.

Judge may
satisfy him-
self as to
real value.

Fees where
estate con-
sists of
insurance
moneys and
wearing
apparel.

74.—(1) Where letters probate, letters of administration or letters of guardianship are sought and the whole property of the deceased or of the ward does not exceed in value \$400, the registrar shall prepare the necessary papers to lead grant, including all papers and proofs required by *The Succession Duty Act*, and the bond, if any, and administer the necessary oaths; and the total amount to be charged to the applicant for all the proceedings and services shall be \$2.

(2) Where letters probate, letters of administration or letters of guardianship are sought, and the whole property of the deceased or of the ward does not exceed \$1,000, the fees payable to the judge and the registrar shall be one-half of the fees payable according to the tariff in the case of an estate not exceeding in value \$1,000.

(3) If the judge has reason to believe that the property exceeds in value \$1,000, he shall refuse to proceed with the application until he is satisfied as to the real value.

(4) Subject to subsection 1, where the whole property of the deceased, or of the ward, consists of insurance money, or of insurance money and wearing apparel, although general letters probate, general letters of administration or letters of guardianship are sought, the fees payable thereon shall be as follows:

| | |
|---|--------|
| Where the insurance money does not exceed \$1,000..... | \$4.00 |
| Where the insurance money exceeds \$1,000, but does not exceed \$2,000..... | 6.00 |
| Where the insurance money exceeds \$2,000, but does not exceed \$3,000..... | 8.00 |

Apportion-
ment of
fees.

Fees to be
exclusive of
fees payable
to Crown.

(5) The Lieutenant-Governor in Council may apportion the fees payable between the judge and the registrar.

(6) The fees prescribed by this section shall be exclusive of any other fees payable to the Crown, and shall not include the fees payable in respect of contentious business. R.S.O. 1937, c. 106, s. 71.

RESEALING PROBATES AND LETTERS OF ADMINISTRATION

Manner of
giving effect
to grants of
probate, etc.,
of English or
Colonial
Courts.

75.—(1) Where probate or letters of administration, or other legal document purporting to be of the same nature, granted by a court of competent jurisdiction in the United Kingdom, or in any province or territory of Canada, or in any other British possession, is produced to, and a copy thereof deposited with the registrar of any surrogate court, and the

prescribed fees are paid as on a grant of probate or administration, the probate or letters of administration, or other document shall, under the direction of the judge, be sealed with the seal of the surrogate court, and shall thereupon, as to personal property, be of the like force and effect in Ontario, as if the same had been originally granted by such surrogate court, and shall, so far as regards Ontario, be subject to any order made by such court, or on appeal therefrom, as if the probate or letters of administration had been granted thereby.

(2) Subject to subsection 3, letters of verification issued in the Province of Quebec shall be deemed to be a probate within the meaning of this section. Letters of verification in Quebec.

(3) Where it has been shown that the will was executed in manner and form sufficient to pass real property within Ontario under *The Wills Act* and the judge so certifies, the sealing shall have the same effect as to real property as if probate had been granted by the surrogate court. Effect of re-sealing as to real property. Rev. Stat., c. 426.

(4) The letters of administration shall not be sealed with the seal of the surrogate court until a certificate has been filed, under the hand of the registrar of the court which issued the letters, that security has been given in such court in a sum of sufficient amount to cover as well the assets within the jurisdiction of such court as the assets within Ontario, or in the absence of such certificate, until like security is given to the judge of the surrogate court covering the assets in Ontario as in the case of granting original letters of administration. Security required. R.S.O. 1937, c. 106, s. 72.

FEES AND COSTS

76.—(1) The fees payable to the Crown and to the judge shall be payable in law stamps. Fees payable to Crown and judge.

(2) The stamps in respect of a grant of probate or administration or guardianship shall be affixed to the order for the grant and not to the probate or letters of administration or guardianship. R.S.O. 1937, c. 106, s. 73. Affixing stamps.

77.—(1) The fees payable upon the value of the estate of the deceased shall be calculated upon the value of the whole estate, including the real estate as well as the personal estate. Fees to be on value of whole estate. R.S.O. 1937, c. 106, s. 74 (1); 1938, c. 40, s. 2.

(2) In calculating the value of the real property there shall be deducted the actual value of any encumbrance thereon. R.S.O. 1937, c. 106, s. 74 (2). Deduction.

78.—(1) Subject to the approval of the Lieutenant-Governor in Council the Rules Committee may, Rules committee may make rules.

- (a) make rules for regulating the practice and procedure in the surrogate courts;
- (b) make rules and regulations regulating and fixing all fees payable to the Crown, the judge, the registrar, and other officers of the court, and fees and expenses payable to witnesses, in respect of proceedings in such courts;
- (c) prescribe a tariff of fees to be allowed to solicitors and counsel practising in such courts;
- (d) prescribe forms for use in such courts. R.S.O. 1937, c. 106, s. 75 (1); 1941, c. 58, s. 2.

Existing
rules, tariff
and forms.

(2) The existing rules, fees payable to the Crown, fees to be allowed to solicitors and forms, shall remain in force until altered, amended or repealed as in subsection 1 provided, R.S.O. 1937, c. 106, s. 75 (2).

CHAPTER 381

The Surveys Act

1. In this Act,

Interpretation.

- (a) "Department" means Department of Lands and Forests;
- (b) "Minister" means Minister of Lands and Forests;
- (c) "surveyor" means Ontario land surveyor;
- (d) "regular lot" means a lot the boundaries of which conform to that particular system of survey in which such lot occurs;
- (e) "unbroken lot" means a regular lot the area of which is not diminished or increased by any natural or physical features shown on the original plan;
- (f) "undisputed angle" means an angle of a lot at which an original post, original monument or other original mark intended to define such angle still exists or at which the position of the original post, original monument or original mark can be established by satisfactory evidence;
- (g) the true bearing of a line is the astronomic bearing of the same. R.S.O. 1937, c. 232, s. 1.

2. No survey of land for the purpose of establishing, defining, locating or describing any limit, boundary or angle whatsoever in any township, city, town, village, concession, section, block, gore, reserve, common, lot, mining claim, mining location or other parcel of land shall be valid unless performed by a surveyor. R.S.O. 1937, c. 232, s. 2.

Validity of surveys.

PROCEDURE OF SURVEYOR

3.—(1) Every surveyor shall make and preserve exact and regular field notes of all his surveys and shall also keep a proper record or index of all such field notes and shall exhibit or give copies of the same to any person concerned for a reasonable charge.

Field notes.

(2) Where a surveyor has died and no arrangements have been made, within six months, to place his field notes, records and indices in the custody of a surveyor in active practice, they shall be delivered by the executors of the estate of the

Custody of field notes, etc., of deceased surveyor.

deceased surveyor to the Minister who shall hold them until such time as arrangements may be made to place such field notes, records and indices in the custody of a surveyor in active practice.

To be
deemed
public
documents.

(3) During the time such field notes, records and indices are in the possession of the Minister they shall be considered to be public documents and shall be open for inspection by interested parties in accordance with the regulations of the Department for that purpose. R.S.O. 1937, c. 232, s. 4.

Standard
measure.

4.—(1) The secretary-treasurer of the Association of Ontario Land Surveyors shall, by the standard measure of length deposited with the Department and under such instructions as he from time to time receives from the council of the Association, examine, test and stamp each standard measure of length for the surveyor who brings the same for examination, and for each standard measure so examined, tested and stamped, shall receive a sum, not less than \$1 nor more than \$2 as the council may by by-law determine.

Surveyor
to procure
a stamped
standard
measure of
length.

(2) Every admitted and practising surveyor shall procure and shall cause to be examined, corrected, tested and stamped or otherwise certified by the secretary-treasurer a standard measure of length, under the penalty of the forfeiture of his licence or certificate, and shall as often as may be necessary verify by such standard measure the length of his measuring tapes and chains, and shall also verify in the proper manner the accuracy of his other surveying instruments. R.S.O. 1937, c. 232, s. 5.

Chainman's
oath.

5. A surveyor may require any chainman or other assistant in his employ, before he commences his duties as such, to take an oath to act as such justly and exactly according to the best of his judgment and ability and to render a true account of such duties to the surveyor by whom he is employed, which oath the surveyor employing is hereby authorized and required to administer whenever it may be necessary. R.S.O. 1937, c. 232, s. 6.

When land
surveyors
may pass
over private
lands.

6.—(1) A surveyor and his duly authorized assistants when engaged in the performance of the duties of his profession, may pass over, measure along and ascertain the bearing of any line or limit whatsoever and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person.

Right to
enter
buildings.

(2) For the purpose of obtaining any measurements necessary to a proper and satisfactory performance of the duties of his profession, a surveyor and his duly authorized

assistants shall have the right of entry to any building at a time suitable to the rightful occupant of such building.

(3) Any person who interferes with or obstructs a surveyor in the exercise of any of the powers conferred by subsections 1 and 2 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. R.S.O. 1937, c. 232, s. 7. Penalty for obstruction.

7.—(1) For better ascertaining the original limits of any township, concession, range, lot, mining claim, mining location or other parcel of land, every surveyor may when necessary administer an oath to any person whom he examines concerning any boundary, post or monument or any original land mark, line limit or angle of any township, concession, range, lot, mining claim, mining location or other parcel of land which the surveyor is employed to survey. Administration of oaths by surveyor.

(2) The evidence taken by the surveyor shall be reduced to writing and shall be read over to and be signed by the person giving the evidence, or, if he cannot write, such person shall acknowledge it as correct before two witnesses, who, as well as the surveyor, shall sign the same. Evidence, how to be taken down.

(3) The evidence, and any document or plans prepared and sworn to by a surveyor as correct with reference to any survey performed by him, may be filed and kept in the registry office of the registry division, or in the office of land titles for the district in which the land to which the same relates is situated, subject to be produced thereafter in evidence in any court. Filing evidence, documents.

(4) The fee for receiving and filing the same shall be 25 cents, and the expense of filing shall be borne by the parties in the same manner as the other expenses of the survey. R.S.O. 1937, c. 232, s. 8. Fees

8.—(1) Where a surveyor is in doubt as to the true boundary or limit of any township, city, town, village, concession, section, block, gore, reserve, common, lot, mining claim, mining location or parcel or tract of land which he is employed to survey and has reason to believe that any person is possessed of any important information touching such boundary or limit, or of any writing, plan or document tending to establish the true position of such boundary or limit, then if such person being tendered his reasonable expenses does not willingly appear before and be examined by the surveyor, or does not willingly produce to him such writing, plan or document, a judge of a county or district court, upon the application of the surveyor or the person employing him, accompanied by an affidavit or statutory declaration of the facts on which the Powers to secure evidence by subpoena.

application is founded, may order a subpœna to issue commanding such person to appear before the surveyor at a time and place to be mentioned in the subpœna and to bring with him any writing, plan or document mentioned or referred to therein.

Service of
subpœna.

(2) The subpœna shall be served on the person named therein by delivering a copy thereof to him, or by leaving it for him with some grown-up person at his residence, exhibiting to him or to such grown-up person the original.

Penalty for
disobeying.

(3) If the person commanded to appear by the subpœna after being paid his reasonable expenses, or having the same tendered to him, refuses or neglects to appear before the surveyor, at the time and place appointed in the subpœna, or to produce such writing, plan or document, if any, therein mentioned or referred to, or to give such evidence or information as he may possess touching the boundary or limit in question, the person so summoned shall be guilty of a contempt of the court out of which the subpoena issued, and an attachment may be issued against him by order of the court, and he may be punished accordingly, by fine or imprisonment, or both, in the discretion of the court. R.S.O. 1937, c. 232, s. 9.

True and
unalterable
boundaries,
what to be
deemed.

9.—(1) All boundary lines of townships, cities, towns and villages, all concession lines, governing points, and all boundary lines of concessions, sections, blocks, gores, reserves, mining claims, mining locations and commons, and all side lines and limits of lots surveyed and all trees marked in lieu of posts and all posts or monuments, marked, placed or planted at the front or rear angles of any lots or parcels of land, under the authority of the Executive Government of the late Province of Quebec or of Upper Canada, or of Canada, or under the authority of the Executive Government of Ontario, or the Minister, shall be the true and unalterable boundaries of the townships, cities, towns, villages, concessions, sections, blocks, gores, reserves, mining claims, mining locations, commons and lots or parcels of land respectively, whether the same upon admeasurement be found to contain the exact width or depth or more or less than the exact width or depth shown on the original plan and field notes or mentioned or expressed in any letters patent, grant or other instrument in respect of such township, city, town, village, concession, section, block, gore, reserve, mining claim, mining location, common, lot or parcel of land.

Road allow-
ances and
commons
dedicated.

(2) In every township, city, town or village, concession, section, block, gore, reserve, mining claim, mining location, common, lot or parcel of land or any part thereof which has been surveyed under the authority mentioned in this section,

all allowances for any road, street, lane or common, laid out in the original survey of such city, township, town or village, concession, section, block, gore, reserve, mining claim, mining location, common, lot or parcel of land, or any part thereof, shall be public highways and commons, and all posts or monuments placed or planted in the original survey to designate or define any such allowance for road, street, lane or common shall designate or define the true and unalterable boundaries of every such road, street, lane or common.

(3) Every surveyor employed to make a survey in any such township, city, town, village, concession, section, block, gore, reserve, mining claim, mining location, common, lot or parcel of land surveyed originally under the authority referred to in this section, shall be governed by the provisions set out in this Act for a survey in a township. Rules for survey in township to govern. R.S.O. 1937, c. 232, s. 10.

10. Where a township, tract or block of land, the whole or any part of which has not been surveyed, has been or is granted by the Crown, the first survey made under the authority of the owner of any unsurveyed part thereof shall have the same force and effect as if made under the authority mentioned in section 9 and all allowances for roads, streets, lanes and commons surveyed in such township, tract or block of land and laid down on the plans of such survey thereof, shall be public highways, roads, streets, lanes and commons, and all lines run and marked in such survey, and all posts or monuments planted or placed in such survey to define any allowance for road, street, lane or common, concession, section, block, gore, parcel or lot of land, shall define the true and unalterable lines and boundaries of such allowances for road, street, lane or concession, section, block, gore, common, parcel or lot of land, and every surveyor employed to make a survey in such township, tract or block of land, shall be governed by the provisions laid down in this Act for surveys in townships surveyed under the authority referred to in section 9. Unsurveyed lands granted in blocks and subsequently surveyed by grantees. R.S.O. 1937, c. 232, s. 11.

11.—(1) Where any city, town, village, lot, mining claim, mining location or part thereof, or any parcel or tract of land has been or may be surveyed and laid out and a plan thereof made by a company or individual in accordance with *The Registry Act* or *The Land Titles Act*, all lines or limits shown thereon and the courses thereof, given in such survey and laid down on the plans thereof and all posts or monuments placed or planted in the first survey of such city, town, village, or part thereof, or parcel or tract of land, to designate or define any allowances for road, street or lane, or any commons, lot, block or parcel of land, shall designate and define the true and unalterable lines and boundaries thereof respectively. Re-surveys of surveyed territory under Rev. Stat., cc. 336, 197.

Allowances
for roads
laid out by
private
owners.

(2) Subject to the provisions of *The Registry Act* and *The Land Titles Act* as to the amendment or alteration of plans, all allowances for roads, streets, lanes or commons, surveyed in any such city, town, village, lot, mining claim, mining location or any parcel or tract of land or any part thereof, which has been or may be surveyed and laid out by companies or individuals and laid down on the plans thereof shall be public highways, streets, lanes and commons.

Methods of
original
survey to
be followed.

(3) Where a surveyor is employed to establish or re-establish the boundaries of any road, street, lane, common, lot, block or parcel of land shown on any such plan, he shall follow the method adopted in making the original survey as shown on the plan or field notes and shall give proportionate dimensions to each lot shown thereon where the original posts or monuments defining the angles of such lot cannot be found or their position satisfactorily established.

Allowance
for road
when closed
to belong to
adjoining
owner.

(4) Where under subsection 2 an allowance for a road, street or lane laid down upon a plan is a public highway but the municipal corporation has not assumed it for public use, and the allowance or any part thereof is closed by an alteration of the plan under *The Registry Act*, *The Land Titles Act* or other provisions in that behalf, the allowance or part thereof so closed shall belong to the owners of the land abutting thereon.

How owners
of abutting
lands to take.

(5) Where several parcels of land having different owners abut on the allowance or part thereof, so closed, the owner of each parcel shall be entitled to that part of the allowance so closed on which his land abuts to the middle line of the allowance, and where there are several owners of an abutting parcel, each shall be entitled to the like estate or interest in such part as he has in the parcel of land abutting thereon.

When
allowance
abutted on
one side by
a stream,
etc.

(6) When any part of the allowance so closed is abutted on one side by another road, street or lane or by a stream, river or other body of water over which the public have rights of navigation or of floating timber, the whole width of such part shall belong to the owners whose lands abut thereon opposite such street, stream, river or water.

Division
line between
adjoining
parcels.

(7) The division line between two adjoining parcels produced to the middle line of the closed allowance or across such allowance in cases coming within subsection 6 shall be the division line between the parts of the closed allowance to which the owners of such parcels are respectively entitled.

Encum-
brance to
extend to
road so
closed.

(8) When there is an encumbrance on a parcel of land abutting on the allowance or part thereof so closed, it shall extend through and include the part thereof to which the owner of such parcel becomes entitled under this section.

(9) Where any allowance for a road, street or lane is closed under this section, it shall be the duty of the corporation of the municipality in which the allowance for such road, street or lane was vested to execute a conveyance to each owner of that portion of the road allowance which belongs to him under this section, and the corporation shall register the conveyance in the proper registry or land titles office.

Where allowance closed, deed to adjoining owner.

(10) The cost of preparing and registering the conveyance shall be borne by the municipal corporation. R.S.O. 1937, c. 232, s. 12.

Cost of conveyance.

12.—(1) Every angle of the exterior boundary of a subdivision plan of any area of land prepared for the purpose of registration under *The Registry Act* or *The Land Titles Act* shall be defined in the survey thereof by a monument made of,

Monuments on subdivision plans.
Rev. Stat., cc. 336, 197

- (a) stone or reinforced concrete five inches square at the top, eight inches square at the base and not less than three feet, six inches in length, planted so that the top is flush with the ground level; or
- (b) iron in the form of a bar one inch square and four feet long driven into the ground so that the top is flush with the ground level; or
- (c) in the case of exposed solid rock, iron in the form of a bolt one inch square and four inches long cemented or leaded into the rock so that the top is flush with the rock level,

provided that where the nature of the location is such that it is impracticable to fully comply with this subsection, the monument shall be so erected and fixed and of such a type as will represent substantial compliance therewith. 1948, c. 89, s. 1.

(2) All bearings shown on the plan of any such survey shall be referred to one course in the boundary thereof, such course being designated on the plan as the reference line, and the course of such reference line shall be the true bearing which shall be determined by astronomic observation or other satisfactory method.

Bearings of subdivision plans.

(3) One such monument shall be placed at one angle of each street intersection shown on any plan prepared for the purpose of registration.

Monuments at street intersections.

(4) The surveyor shall indicate on such plan the position and form of any such monuments planted in accordance with this section, and shall certify that the plan is prepared in accordance with the provisions of this Act. R.S.O. 1937, c. 232, s. 13 (2-4).

Certificate on subdivision plan.

MUNICIPAL SURVEYS

Municipal
survey of
township
boundary.

13. Where the council of a county deems it advisable that monuments of stone or other durable material shall be placed on the boundary or boundaries of any township or townships situate therein the council may apply to the Lieutenant-Governor in Council to cause a survey to be made and such monuments placed under the direction and order of the Minister and the council shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the ratepayers of any township or concession, to be levied on them, in the same manner as any sum required for any other local purposes authorized by by-law may be levied. R.S.O. 1937, c. 232, s. 14.

Municipal
survey of
side road
or concession
lines.

14.—(1) Where in any township, any of the concession road lines and side road lines or parts of the concession road lines and side road lines were not run in the original survey or the survey of any of the concession road lines and side road lines or parts of the concession road lines and side road lines have been obliterated, and owing to the want of such lines the inhabitants of such concessions are subject to serious inconvenience, the council of the township shall, on application of one-half the land owners affected thereby, or may upon its own motion without such application, apply to the Lieutenant-Governor in Council to cause any such line to be surveyed and to be marked by monuments of stone or other durable materials under the direction and order of the Minister, in the manner prescribed in this Act, at the cost of such owners. R.S.O. 1937, c. 232, s. 15 (1), *amended*.

Expenses,
how borne.

(2) The township council shall cause to be laid before it an estimate of the sum requisite to defray the expenses to be incurred in order that the same may be levied on the owners affected thereby in proportion to the benefit received, in the same manner as any sum required for any other purpose authorized by law may be levied, or the council may without a previous estimate levy on such owners in such proportions the amount of the expense when the same has been incurred and ascertained, and the certificate of the Minister certifying the amount of such expense shall be conclusive.

Payment
out of
municipal
funds.

(3) Where an application is made by a township council upon its own motion, the council, if it deems the application to be in the public interest in assisting to determine the boundaries or limits of any public road or highway or the like, may pay out of the general funds of the township either the whole of the expense or such part thereof as the council may deem proper, and in the event of the council paying only part of the expense out of the general funds the council may order

that the remainder of the expense be levied on such owners in proportion to the benefit received. R.S.O. 1937, c. 232, s. 15 (2, 3).

15.—(1) The council of any municipality, upon its own motion may, or upon the petition of one-half of the owners of lands affected shall, apply to the Lieutenant-Governor in Council in the same manner as is provided by section 14, to cause a survey to be made and monuments to be placed at the front angle or at the rear angle, or at the front and rear angles of any concession, section, block, gore, lot, mining claim, mining location, common or parcel of land referred to in sections 9, 10 and 11, lying within such municipality, and such monument shall be of stone or other durable material, and shall be placed in position under the direction and order of the Minister in the manner prescribed in this Act. 1941, c. 59, s. 2.

Applica-
tion for
survey of
lot lines.

(2) The cost of such survey shall be defrayed in the manner prescribed by section 14. R.S.O. 1937, c. 232, s. 16 (2).

Cost of
survey, how
to be
defrayed.

16.—(1) The Minister shall appoint a surveyor to make any such survey for which application has been made to the Lieutenant-Governor in Council as provided in sections 13, 14 and 15 and on the return in triplicate of the plans and field notes of such survey to the Minister, he shall cause a notice thereof to be published once in each week for four consecutive weeks in a newspaper published in the county or district town of the county or district in which the lands lie, and shall specify in the notice a day not less than 10 days after the last publication on which the report of the survey will be considered and the parties affected thereby heard, and on the hearing the Minister may either confirm the survey or direct such amendments or corrections to be made as he shall deem necessary, and shall confirm the survey so amended or corrected, and the lines or parts of the lines so surveyed and marked and the monuments so planted shall thereafter define and designate such corners, governing points or offsets or such ends of concessions or side road lines or such concession or side roads or parts of concession or side roads or such front or rear angles of lots to all intents and purposes, and the order of the Minister confirming the survey shall be final and conclusive upon all persons and shall not be questioned in any court, and the plan and field notes shall have the same force and effect as an original plan and field notes.

Confirma-
tion of
survey.

(2) One copy of such plan and field notes of any such survey so confirmed shall be filed by the Minister in the registry office or office of land titles for the district in which the land is situate.

Filing copy
of plan and
field notes
in registry
and land
titles offices.

Special
lines and
boundaries.

(3) If in the course of a survey undertaken under sections 13, 14 or 15 it is found necessary to establish any lines, limits or boundaries other than those specifically mentioned in the instructions, the Minister may at his discretion confirm any such line, limit or boundary as part of the survey and require the same to be properly marked with stone or other durable monuments. R.S.O. 1937, c. 232, s. 17.

Expenses of
survey,
how paid.

17.—(1) All expenses incurred in making any survey and placing any monument under sections 13, 14, 15 and 16 shall be paid to the surveyor making the survey on certificate and order of the Minister by the treasurer of the municipality by whom the application for the survey is made. R.S.O. 1937, c. 232, s. 18.

Where paid
by Treasurer
of Ontario.

(2) Where any municipal council or owner making application for a survey under section 13, 14 or 20 is not able to pay the whole of the expenses of the survey, such council or owner may apply to the Lieutenant-Governor in Council to have all or part of the expenses paid by the Treasurer of Ontario out of such moneys as may be voted by the Legislature and appropriated for this purpose, and notwithstanding subsection 1 and section 20 the Lieutenant-Governor in Council may so direct. 1946, c. 94, s. 1.

RE-SURVEYS OF SURVEYED TERRITORY

Re-survey
on order of
Minister.

18.—(1) Where any survey performed in accordance with sections 9 and 10 has become wholly or partially obliterated, and in the opinion of the Minister it is in the public interest that the lines be re-established, the Minister may direct a re-survey to be made for such purpose and the lines to be marked by monuments of stone or other durable material, and upon such direction being made the provisions of subsection 1 of section 16 shall, *mutatis mutandis*, apply.

Confirmation
of re-surveys
already
made.

(2) Where a similar re-survey has been made under the instructions of the Minister before the 1st day of June, 1947, the Minister may, upon compliance with the conditions as to publication of notice and holding a hearing set forth in subsection 1 of section 16, confirm the re-survey, and such confirmation shall have the like force and effect as a confirmation made under the said subsection. 1947, c. 106, s. 1.

Determina-
tion of lost
or obliterated
lot
angles.

19.—(1) Where a surveyor is required to establish for any purpose a front angle of any lot in any concession and the original post or monument marking the angle cannot be found, he shall obtain the best evidence that the nature of the case admits of respecting the position of such post or monument, but if the same cannot be satisfactorily estab-

lished, then the surveyor shall measure the true distance between the two nearest undisputed angles of lots on the concession line, one being on each side of the angle which it is required to establish and shall establish such angle by dividing such distance proportionately as intended in the original survey.

(2) Where that part of the concession line on which such angle is situated has become obliterated, the same shall be established by drawing a straight line between the two nearest places where the same can be ascertained or determined, one being on each side of the angle which it is required to establish.

Determina-
tion of
obliterated
concession
lines.

(3) Where a surveyor is required to establish for any purpose a front angle of any lot on a township boundary and the original post or monument marking the angle cannot be found, he shall obtain the best evidence that the nature of the case admits of respecting the position of such post or monument, but if the same cannot be satisfactorily established, then the surveyor shall measure the true distance between the two nearest undisputed angles of lots on the township boundary, one being on each side of the angle which it is required to establish and shall establish such angle by dividing such distance proportionately as intended in the original survey.

Obliterated
township
boundary.

(4) Where that part of the township boundary on which such angle is situated has become obliterated, the same shall be established by drawing a straight line between the two nearest places where the same can be ascertained or determined, one being on each side of the angle which it is required to establish.

Best
evidence in
double front
concessions.

(5) In the original survey of any township, where more than one row of posts, monuments or marks was planted or made on the concession line, and a post, monument or mark marking the angle of a lot is lost and the position thereof cannot be satisfactorily ascertained, any such post, monument or mark found still standing or the position of which can be satisfactorily determined on the opposite side of the concession road allowance, shall constitute the best evidence as to the position of the post, monument or mark which is lost, and if no such post, monument or mark can be found or so ascertained on the opposite side of the concession road allowance and the position of a post, monument or mark on the centre line of the concession line can be so determined, then such post, monument or mark on the centre line shall be the best evidence for the purpose of establishing the post which is lost.

Where some
posts or
marks are
lost.

Proviso.

(6) Subsections 1 and 3 shall not apply to the front angles of lots directly or indirectly affected by the provisions of section 30.

Idem.

(7) Angles of lots that can be established in accordance with the provisions of section 30 and subsections 3 and 4 of this section shall be undisputed angles for the purpose of subsection 1.

Whole concession line obliterated or not run.

(8) Where a surveyor is called upon to establish as a whole or in part a concession line that has been completely obliterated or was not run in the original survey, he shall establish the same so as to give the lots in each of the adjacent concessions a depth proportionate to that intended in the original survey. R.S.O. 1937, c. 232, s. 19.

Re-establishment of line.

20. In any township which has not been organized for municipal purposes, where any concession line or any side line or a part of any such line has been obliterated and it is found necessary to re-establish such line, the Minister may, at the request of any owner or owners of land bounded or affected by such line, order the line to be surveyed and marked by monuments of stone or other durable material in the manner prescribed by this Act and at the cost of such owner or owners, and the provisions of section 16 shall apply *mutatis mutandis* to any survey ordered under this section. 1940, c. 28, s. 26.

Governing lines.

21.—(1) Except as provided in subsections 2 and 3, the division or side lines between lots in any concession in any township other than those townships surveyed into sections under the authority of an Order in Council dated 27th day of March, 1829, and subsequent Orders, shall be run,

- (a) if so intended on the same astronomic course as the boundary line of the concession at that end from which the lots are numbered, and if not so intended, or such boundary was not run in the original survey, or is wholly broken by a lake, river or other natural boundary, then on the same astronomic course as the boundary line at the other end of the concession if so intended;
- (b) if not intended to be run on the same course as the boundary line at either end of the concession, such division or side lines shall be run, if so intended, at such angle with the boundary line at that end of the concession from which the lots are numbered as shown on the plan and field notes of record in the Department, and if not so intended or if such end be wholly bounded by a lake, river or other natural boundary, or was not run in the original survey, then at such angle with the boundary line at the other end

of the concession as is shown on such plan and field notes if so intended;

- (c) if neither of such boundaries of the concession were run in the original survey or if the concession is wholly bounded at both ends by a lake, river or other natural boundary then such division or side lines shall be run at such angle with the course of the line in front of the concession as is stated in such plan and field notes or if parts of the line in front of the concession have been run on different courses as shown on such plan and field notes, then at such angles with the course of each of those parts, as is stated in the plan and field notes.

(2) If any division or side line between lots, or proof line intended to be on the same course as the division or side lines between lots, was drawn in the original survey in any concession in any such township bounded at both ends by a lake, river or other natural boundary, or in which the line at neither end of the concession was run in the original survey, the division or side lines between the lots therein shall be run on the same course as such division or side or proof line. Where division or proof line has been run between lots.

(3) When two or more such division or side lines or proof lines were drawn in the original survey of such concession, so bounded, that division or side line or proof line which is nearest to the boundary of the concession from which the lots are numbered shall govern the course of the division or side lines of all the lots in such concession between the boundary of the concession from which the lots are numbered, and the next division or side line or proof line drawn in the original survey, and the last-mentioned line or proof line shall govern the course of the division or side lines of all the lots up to the next division or side line or proof line drawn in the original survey or to the boundary of the concession towards which the lots are numbered as the case may be. When more than one such line drawn in original survey.

(4) If in any concession in any such township coming within clauses *a* and *b* of subsection 1, such division or side line or proof line was run in the original survey, it shall govern the course of the division or side lines in such concession on that side of the proof line which is farthest from that end of the concession which is intended to govern the course of the division or side lines in such concession. R.S.O. 1937, c. 232, s. 20. When proof line to govern.

22.—(1) Except as provided in subsection 2, in all those townships which in the original survey were divided into sections, agreeably to an Order in Council bearing date the 27th day of March, 1829, or subsequent Orders, the division or side lines between the lots in all concessions, in any section How lines to be governed in townships laid out in sections.

or block, shall be governed by the boundary lines of such section or block, in like manner as the division or side lines in townships originally surveyed before that day are governed by the boundary lines of the concession in which the lots are situated; provided that in those sections or blocks the governing boundaries of which are broken by lakes or rivers in such a way that the course thereof cannot accurately be determined on the ground a surveyor when called upon to run any side line in a concession in such section or block, shall run the side line on the astronomic course of the side line as shown on the original plan and field notes thereof of record in the Department. R.S.O. 1937, c. 232, s. 21 (1).

Exceptions.

(2) The side lines between all lots in all townships in the Districts of Muskoka and Parry Sound; all townships in the District of Nipissing which lie south of the Mattawan River and Trout Lake; and the Township of Mattawan in that District; all townships in the provisional County of Haliburton; the Townships of Dalton, Digby and Longford, in the County of Victoria; the Townships of Galway, Cavendish, Anstruther and Chandos in the County of Peterborough; the Townships of Tudor, Grimsthorpe, Wollaston, Limerick, Cashel, Faraday, Dungannon, Mayo, Herschel, Monteagle, Carlow, McClure, Wicklow and Bangor, in the County of Hastings; the Townships of Anglesea, Effingham, Abinger, Ashby and Denbigh, in the County of Lennox and Addington; the Townships of Barrie, South Canonto, North Canonto, Clarendon and Miller, in the County of Frontenac, and the Townships of Brougham, Grattan, Wilberforce, Alice, Matawatchan, Griffith, Sebastopol, South Algona, North Algona, Fraser, Richards, Hagarty, Brudenell, Lyndoch, Raglan, Radcliffe, Sherwood, Burns, Jones, Petawawa, McKay, Buchanan, Wylie, Rolph, Head, Maria and Clara in the County of Renfrew shall be run on the astronomic course stated in the plan and field notes of the original survey of record in the Department, but nothing in this subsection shall affect the side lines of any lot in any concession in any section or block in which any side line was run before the 1st day of July, 1897. R.S.O. 1937, c. 232, s. 21 (2); 1945, c. 24, s. 1 (1); 1950, c. 82, s. 1.

Surveyor's return to township clerk.

(3) Every surveyor shall on the 31st day of December in each year, make to the clerk of the township a return (Form 1) of all lines run by him in such township under subsection 2. R.S.O. 1937, c. 232, s. 21 (3).

Governing line, how to determine the course of.

23. Where a surveyor is called upon to determine the astronomic course of any governing line for the purpose of running any side line or other division line in any concession or section, he shall determine the astronomic course of the straight line joining the front and rear ends of such governing

line, and shall run such side or other line on such astronomic course or at an angle therewith, in accordance with the provisions laid down in this Act in that behalf, and where a division or side line is to be run, at an angle with the front line or any part of the front line of any concession, the ends of such front line or part thereof shall be joined as above provided, for the purpose of laying of such angle. R.S.O. 1937, c. 232, s. 22.

24. The front of each concession in any township where only a single row of posts has been planted on the concession lines, and the lands have been described in whole lots, shall be that boundary of the concession which is nearest to the boundary of the township from which the concessions thereof are numbered, and where the line in front of any such concession was not run in the original survey, the division or side lines of the lots in such concession shall be run from the angles of lots on the front line of the concession in the rear thereof to the depth of the concession—that is, to the centre of the space contained between the lines in front of the adjacent concessions, if the concessions were intended in the original survey to be of an equal depth, or, if they were not so intended, then to the proportionate depth intended in the original survey as shown on the plan and field notes thereof of record in the Department, having due regard to any allowance for a road made in the original survey, and a straight line joining the extremities of the division or side lines of any lot in such concession so drawn shall be the true boundary of that end of the lot which was not run in the original survey. R.S.O. 1937, c. 232, s. 23.

What shall be deemed the front of a concession where only a single row of posts planted.

25.—(1) In those townships in which any concession is wholly bounded in front by a river or lake or other natural boundary where no posts or other boundary marks were planted or made in the original survey on the bank of such river, or lake or natural boundary to regulate the widths in front of the lots in the broken front concessions, the division or side lines of the lots in such broken front concessions shall be drawn from the angles of lots on the concession line in rear thereof to the river, lake or natural boundary in front.

Broken front concessions.

(2) Where any concession is bounded in front at either end, in part, though not wholly, by a river, lake or other natural boundary, and no posts or other boundary marks were planted or made in the original survey on the bank of such river, lake or natural boundary to regulate the widths of the lots broken thereby, the division or side lines of such broken lots shall be drawn to the lake, river or other natural boundary in front from points on the rear of the concession determined by dividing proportionately as intended in the original survey

Side lines in broken fronts.

the distance between the end of the concession and the intersection of the last whole lot line of the original survey with the rear of the concession; provided that where such end of the concession is wholly bounded by a lake, river or other natural boundary and no measurement was made in the original survey along the rear of the concession to the lake, river or other natural boundary, the surveyor shall determine the points from which the side lines of such lots shall be drawn by measuring along the rear line the widths of the lots as originally intended from the intersection of the last whole lot line.

Where front is bounded partly by lake, etc.

(3) Similarly where a concession is bounded partly in front by a lake, river or natural boundary and where such lake, river or other natural boundary does not extend to either end of the concession, the points from which the lot lines in that part of the concession so bounded shall be run, shall be determined by dividing proportionately as shown on the original plan and field notes the distance between the intersections of the last whole lot line on either side of such lake, river or other natural boundary with the rear line of the concession. R.S.O. 1937, c. 232, s. 24.

Concessions with double fronts.

26.—(1) In those townships in which the concessions have been surveyed with double fronts (that is, with posts or monuments placed or planted on both sides of the allowances for road between the concessions) and the lands have been described in half lots, the division or side lines between such half lots shall be drawn from the angles of lots at both ends of the lot lines to the centre of the concession, and each end of such lot shall be the front of its respective half of such lot and a straight line joining the extremities of the division or side lines of any half lot in such concession, so drawn, shall be the true boundary of that end of the half lot which was not run in the original survey.

Where not full depth.

(2) Where a double front concession is not of the full depth, the division or side lines shall be drawn from the angles of lots at both ends thereof, to the centre of the concession as provided in subsection 1, without reference to the manner in which the lot or parts of lots in such concession were described for patent. R.S.O. 1937, c. 232, s. 25.

Alternate concessions.

27. In those townships in which each alternate concession line only has been run in the original survey, but with double fronts, the division or side lines shall be drawn from the angles of lots on each side of such alternate concession lines to the depth of a concession—that is, to the centre of the space contained between such alternate concession lines, if the concessions were intended in the original survey to be

of an equal depth or if they were not so intended, then to a depth proportionate with that intended in the original survey, as shown on the plan and field notes thereof of record in the Department; and each alternate concession line shall be the front of each of the two concessions abutting thereon. R.S.O. 1937, c. 232, s. 26.

28. Where the front of any concession or half concession in any township surveyed with double fronts is wholly or in part broken by a lake, river or other natural boundary, the rear boundary of the adjacent concession or half concession or part of the concession or half concession shall be established by giving to such adjacent concession or half concession or part of concession or half concession, its regular depth or the depth shown on the original plan and field notes. R.S.O. 1937, c. 232, s. 27.

Broken front in township with alternate concessions.

29.—(1) In any township that has been surveyed or may hereafter be surveyed into sections or blocks agreeably to an Order in Council dated the 27th day of March, 1829, or subsequent Orders, the division line between the halves of any unbroken regular lot where intended to run from front to rear shall be a line drawn on the same course as it is required to run any side line of such lot which was not run in the original survey from a point on the front of said lot midway between the front angles thereof, and the division line between the halves of any such lot where intended to run from side line to side line across the lot shall be a straight line joining the midway points on the side lines thereof and in dividing any such lot into quarters or other aliquot parts the same methods shall be adopted, but this subsection shall not apply to any such lot the whole or part of which has been patented before the 24th day of March, 1911.

Aliquot parts section system.

(2) Except as provided in subsection 1 and in section 26, every patent, grant or instrument purporting to be for any aliquot part of any concession, block, gore, common, lot or parcel of land in any township, city, town or village shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in the patent, grant or instrument. R.S.O. 1937, c. 232, s. 28 (1, 2).

As to aliquot parts of townships, etc.

(3) Where in accordance with this Act an aliquot part of a lot in a concession in a township is the aliquot part of the area of the lot any boundary of such aliquot part not surveyed prior to the 1st day of July, 1944, shall be run on the same course as is required in the case of a side line of the lot not run in the original survey, or parallel to a straight line joining the front corners of the lot, as the case may be, but where in the

Aliquot part of lot.

latter case the front of the lot is broken at either end by a lake, river or natural boundary the unsurveyed boundaries of the aliquot part shall be run parallel to the straight line joining the rear corners of the lot, and where the rear boundary of the lot is also broken at either end by a river, lake or other natural boundary then the unsurveyed boundaries of the aliquot part shall be run on the astronomic course of the part of the concession line in front of the lot as stated in the original field notes, or if such course was not stated in the original field notes, then they shall be run on the astronomic course intended for such concession line or part of concession line according to the instructions for the original survey of the township. 1944, c. 62, s. 1.

When area
not to
include land
covered by
water.

(4) Where in any survey of Crown lands made under the authority of the Minister, any lot or other subdivision bordering upon a lake or river is given an acreage covering only the land area, such lot or other subdivision shall include the land area only, and not any land covered by the water of such lake or river.

Application
of subs. 2.

(5) Subsection 2 shall not affect the rights, if any, of any person where such rights have been determined by a court of competent jurisdiction before the 8th day of July, 1913. R.S.O. 1937, c. 232, s. 28 (3, 4).

Location of
section
corners.

30.—(1) Where the concession line in front of two adjacent sections or blocks in any township heretofore or hereafter surveyed into sections or blocks under the authority of an Order in Council dated the 27th day of March, 1829, or subsequent Orders in Council, is shown on the plan and field notes to be on the same astronomic course, and in one and the same straight line, and the side lines between such sections or blocks and between the adjacent sections or blocks on the opposite side of such concession line as shown on the plan and field notes to be on the same astronomic course and in the same straight line, and the position of the original monuments marking the adjacent corners of such sections or blocks cannot be satisfactorily ascertained, the surveyor shall connect the nearest undisputed points on the concession line in front of such sections or blocks by a straight line and join the nearest undisputed points on the side line between the sections or blocks, and the intersection of these two lines shall be the angle of the adjacent sections or blocks; provided that the undisputed points on the side line to be connected are not more than 20 chains apart, and that one of them is on either side of the concession line, and if such undisputed points on the side line are more than 20 chains apart, the surveyor shall then establish the angle of the sections or blocks by dividing proportionately, as intended in the original survey,

the distance between the two nearest undisputed angles of lots on the concession line in front of such sections or blocks, and the point so ascertained shall be the angle of the sections or blocks.

(2) Where the concession line in front of two such adjacent sections or blocks, is shown on the plan and field notes to be on the same astronomic course and in the same straight line, and the side lines between such adjacent sections or blocks, and the adjacent sections or blocks on the opposite side of the concession line are shown on the plan and field notes not to be on the same astronomic course or not in one and the same straight line, and the post or posts defining the adjacent angles of such adjacent sections or blocks cannot be found nor the position thereof satisfactorily established and the side lines are obliterated in such manner that they cannot be accurately determined, the surveyor shall determine the position of the angles that are lost by division in the same proportion as is shown on the plan or field notes of the distance between the nearest angles of lots on the concession line that can be satisfactorily established, one being on either side of the angles that are lost.

Where side lines between adjacent blocks, etc., are not on same astronomic course.

(3) Where the concession line in front of two such adjacent sections or blocks is shown on the plan and field notes not to be in the same astronomic course or not in one and the same straight line and the side lines between such adjacent sections or blocks and the adjacent sections or blocks on the opposite side of such concession line are shown on the plan and field notes to be on the same astronomic course and in the same straight line and the post or posts defining the adjacent angles of such sections or blocks cannot be found, nor the position thereof satisfactorily established, and the concession line is obliterated, the surveyor shall determine the position of the angles that are lost by division, in the same proportion as shown in the plan and field notes of the distance between the other angles on such side lines of such adjacent sections or blocks.

Where concession line not intended to be straight.

(4) Where both the concession lines in front of the adjacent sections or blocks and the side lines between such adjacent sections or blocks and between the adjacent sections or blocks on the opposite side of the concession line have been obliterated in such manner that they cannot be accurately determined and the post or posts marking the adjacent angles of such sections or blocks cannot be found or their position satisfactorily established, the surveyor shall apply to the Minister, who shall instruct him how to proceed and the angle determined in accordance with the instructions of the Minister shall be the true and unalterable angle of such sections or blocks.

Where concession lines and side lines obliterated.

Angle to be undisputed.

(5) The angle of a section that can be determined in accordance with this section shall be an undisputed angle for the purpose of this section.

Application of section.

(6) This section shall not apply to any angle of a section re-established prior to the 24th day of March, 1911. R.S.O. 1937, c. 232, s. 29.

As to lands in adjoining concessions included in the same grant.

31. Where a Crown patent, grant or other instrument has been issued for several lots or parcels of land in concessions adjoining each other, the side lines or limits of the lots or parcels of land therein mentioned shall commence at the front angles of such lots or parcels of land respectively and shall be run as hereinbefore provided, and shall not continue on in a straight line through several concessions, that is to say, each lot or parcel of land shall be surveyed and bounded according to the provisions of this Act, independently of the other lots or parcels mentioned in the same patent, grant or instrument. R.S.O. 1937, c. 232, s. 30.

SPECIAL RE-SURVEYS

Former surveys in the Rainy River District adopted.

32.—(1) Except as provided in this section the surveys made under instructions from the Department of the Interior of Canada, of certain townships in the Rainy River District the lots immediately upon the bank of Rainy River having a width of 10 chains fronting the river and a varying depth, and the remaining lands so surveyed being subdivided into sections one mile square, and quarter sections of 160 acres, with road allowances around each section are hereby adopted and legalized.

Reduction of width of road allowances.

(2) The road allowances in the townships in the District of Rainy River, surveyed under instructions from the Department of Interior of Canada, shall be and are hereby declared to be one chain in width, such chain allowance to be that lying immediately north and east respectively of the lines of survey run upon the ground in the original survey.

Lands detached to form part of adjoining quarter section or lots.

(3) The strips of land formerly forming parts of the road allowances shall be detached therefrom and attached to and form part of the quarter sections or lots, as the case may be, immediately adjoining the strips of land on the east and north thereof.

Present quarter section or lot posts to remain.

(4) The quarter section posts or lot posts intended to define on the ground the limits of the quarter sections or lots in such townships shall continue to be the governing points, notwithstanding the addition hereby made to the respective quarter sections and lots. R.S.O. 1937, c. 232, s. 31.

33. Where a surveyor is employed to run any boundary line of, or any dividing line or limit between any sections, quarter sections or other aliquot parts of any section in any township in the district of Rainy River subdivided into sections in accordance with the Dominion lands system of survey; or in the township of Rutherford in the district of Manitoulin; or in the township of Salter in the District of Sudbury; or in any of the following townships and parts of townships in the district of Algoma, namely, Awenge, Aweres, Dennis, Esten, Fenwick, Fisher, Herrick, Kars, Korah, Laird, Lefroy, Macdonald, Meredith, Palmer, Parke, Pennefather, Prince, Rose, Ryan, Spragge, Tarentorus, Thessalon, Thompson, Tilley, VanKoughnet, Victoria, sections 31 to 36, both inclusive, of Havilland, all that portion of Patton south of the third concession, all that portion of Shedden south of the fourth concession; or in any of the following townships in the district of Thunder Bay, namely, Blake, Byron, Crooks, Homer, MacGregor, McIntyre, McTavish, Pardee; and the post or monument planted, erected or marked in the original survey to define the corner of any such section, quarter section or other aliquot part cannot be found, the surveyor shall obtain the best evidence that the nature of the case admits of respecting such post or monument; but if the position of the same cannot be satisfactorily so ascertained, he shall proceed as follows:

Re-surveys
in townships
on Dominion
land system.

- (a) if the lost post or monument is that of a township corner, he shall report the circumstances to the Minister who shall instruct him how to proceed;
- (b) if the lost post or monument is that of a section or quarter section corner on the boundary line of a township, he shall renew the same by joining the nearest original blazes, quarter section or section corners on such boundary by a straight line and shall give to each section or quarter section a breadth proportionate to that shown on the original plan and field notes thereof of record in the Department, having first taken into account and made due allowance for any roads shown on the plan and field notes;
- (c) if the lost post or monument is that of a section corner in the interior of a township he shall renew the same by intersecting the straight lines adjoining the nearest original blazes or original quarter section or section corners on the adjoining intersecting section boundaries, and where the nearest section corner on any side of the lost post or monument is on a township boundary and that post or monument and also the intervening quarter section posts or monuments are lost, and there are no original blazes between such

corners, the surveyor shall first renew the post monuments on the section corner or corners on such township boundary in accordance with clause *b*;

- (*d*) if the lost post or monument is that of a quarter section corner in the interior of a township, he shall renew the same by joining the nearest original blazes or adjacent section corners determined, if necessary, as hereinbefore provided, and shall give to each of the adjacent quarter sections a breadth proportionate to that shown on the original plan and field notes;
- (*e*) in laying out interior boundaries of half sections or of quarter sections he shall connect the opposite quarter section corners determined, if necessary, as hereinbefore provided, by straight lines;
- (*f*) in laying out interior boundaries of other aliquot parts of any section he shall give to each aliquot part its proportionate share of breadth and interior depth and connect the resulting terminal points by straight lines. R.S.O. 1937, c. 232, s. 32.

Establishment of angles of lots in township in which side lines only were surveyed.

34.—(1) Where a surveyor is called upon to establish any front or rear angle or side line of a lot in any township in the original survey of which the side lines only of the lots were surveyed and in which the concession lines were not surveyed and the original monuments defining the position of such angles or side line cannot be found nor the location of the same be satisfactorily ascertained, the surveyor shall measure the true distance between the two nearest undisputed angles of lots on such side lines, one being on either side of the angle which it is desired to establish and shall divide such distance into the number of lots that the same contained in the original survey, making due allowance for any road or roads and giving to each lot its proportionate share of depth, as shown on the original plan and field notes, and shall plant such posts or monuments as he may be required to plant at the lot angles so ascertained and straight lines joining the front angles or the rear angles of a lot so ascertained shall be the true boundaries of those ends of the lot which were not surveyed in the original survey.

To establish side lines.

(2) Where in any such township a surveyor is called upon to establish any side line or part thereof run in the original survey that has become obliterated, he shall join by a straight line or lines the places where such side line can be satisfactorily ascertained and where such line is obliterated at either end, he shall establish such end by measurement only along the township boundary or base line in the manner in which such

measurement was made in the original survey, as shown on the plan and field notes. R.S.O. 1937, c. 232, s. 33.

FORM 1

(Section 22 (3))

SURVEYOR'S RETURN

Township of.....

County of.....

I hereby certify that the foregoing lot lines in the above township were run by me during the year ending December 31st, 19....., under the provisions of *The Surveys Act*.

Line between..... Concession..... Date.....

Lot..... and lot....., etc., etc.

Dated at....., this..... day of....., 19.....

A. B.,

Ontario Land Surveyor

R.S.O. 1937, c. 232, Form 1.



CHAPTER 382

The Survivorship Act

1.—(1) Where two or more persons die at the same time or in circumstances rendering it uncertain which of them survived the other or others, such deaths shall, subject to subsections 2 and 3, for all purposes affecting the title to property, be presumed to have occurred in the order of seniority, and accordingly the younger shall be deemed to have survived the older. 1940, c. 4, s. 1 (1); 1950, c. 83, s. 2 (1).

Order of
death
presumed.

(2) This section shall be read and construed subject to section 183 of *The Insurance Act* and section 36 of *The Wills Act*. 1940, c. 4, s. 1 (2).

Exceptions
to presump-
tion, as to
Rev. Stat.,
cc. 183, 426;

(3) Where a testator and a person who, if he had survived the testator, would have been a beneficiary of property under the will, die at the same time or in circumstances rendering it uncertain which of them survived the other, and the will contains provisions for the disposition of the property in case that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other, then for the purpose of that disposition the will shall take effect as if that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other as the case may be. 1940, c. 4, s. 1 (3); 1950, c. 83, s. 2 (2).

as to
provisions
in will.

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CHAPTER 383

The Teachers' Boards of Reference Act .

1. In this Act,

Interpreta-
tion.

- (a) "board" has the same meaning as in *The Teachers' Superannuation Act*; Rev. Stat.,
c. 384
- (b) "employed" has the same meaning as in *The Teachers' Superannuation Act*;
- (c) "judge" means judge of a county or district court;
- (d) "Minister" means Minister of Education;
- (e) "teacher" means a person qualified to teach in a public school, separate school, continuation school, high school, collegiate institute, provincial normal or model school or a school to which *The Vocational Education Act* applies in accordance with the Acts and regulations administered by the Department of Education. 1946, c. 97, s. 1, amended. Rev. Stat.,
c. 413

2.—(1) Every dismissal or termination of employment of a teacher by a board shall be by notice in writing which shall indicate the reasons for the dismissal or termination. Termination
of employment.

(2) Notwithstanding anything in any other Act, where a teacher employed by a board is dismissed or the engagement of such teacher is terminated by the teacher or the board in a manner not mutually agreeable, the teacher or board may at any time within 15 days of receiving the notice of the dismissal or termination apply in writing to the Minister for a board of reference, setting forth in the application the nature of the dispute. Application
for board of
reference.

(3) The applicant shall forthwith cause a copy of the application to be served by personal service or by prepaid registered post upon the other party to the dispute. 1946, c. 97, s. 2. Service of
notice.

3.—(1) A board shall not make a permanent appointment in place of a teacher who is dismissed or whose appointment has been terminated in a manner not agreeable to the teacher until, Appointment
in place of
teacher
dismissed.

(a) the time prescribed for applying for a board of reference has elapsed;

- (b) notice in writing has been received from the teacher that no application will be made under section 2;
- (c) notice in writing has been received from the Minister that an application made by the teacher under section 2 has been withdrawn; or
- (d) 10 days have elapsed after receipt by the Minister of the report of the board of reference,

whichever of such events first occurs.

Contract after termination of engagement by teacher.

(2) A teacher who terminates an engagement in a manner not agreeable to the board shall not enter into a contract of employment with another board until,

- (a) the time prescribed for applying for a board of reference has elapsed;
- (b) notice in writing has been received from the board that no application will be made under section 2;
- (c) notice in writing has been received from the Minister that an application made by the board under section 2 has been withdrawn; or
- (d) 10 days have elapsed after receipt by the Minister of the report of the board of reference,

whichever of such events first occurs. 1946, c. 97, s. 3.

Application for board of reference.

4.—(1) Upon receipt of an application for a board of reference the Minister shall send notice of the application by prepaid post to the other party to the dispute and inquire into the dismissal or termination of employment and may,

- (a) direct the continuance in force of the contract of employment between the board and the teacher; or
- (b) direct a judge to act as chairman of a board of reference. 1946, c. 97, s. 4 (1); 1949, c. 101, s. 2.

Security for costs.

(2) Before directing a judge to act as chairman of a board of reference the Minister may require the applicant to furnish security for costs in such amount and in such form as he may deem advisable.

Naming of representatives.

(3) Upon directing a judge to act as chairman of a board of reference, the Minister shall cause notice thereof to be sent by prepaid registered post to the board and teacher involved in the dispute and the notice shall require each of them to name a representative to the board and to notify the Minister of such nomination by prepaid registered post or other notice satisfactory to the Minister within 12 days of the sending of the notice by the Minister.

Failure to name representative.

(4) Where the applicant fails to comply with the requirements of subsection 3 the reference shall not proceed and

where either the board or teacher, not being the applicant, fails to comply with such requirements, the chairman shall name a representative for the board or teacher, as the case may be. 1946, c. 97, s. 4 (2-4).

5. The chairman shall with all convenient speed, and upon reasonable notice thereof to the parties, convene the board of reference in such suitable building as may be available. 1946, c. 97, s. 5.

Place and
time of
hearing.

6.—(1) It shall be the duty of the board of reference to inquire into the matter in dispute and for such purpose the chairman shall have all the powers and rights which may be conferred upon a commissioner under *The Public Inquiries Act*.

Duty to
inquire and
powers of
judge.
Rev. Stat.,
c. 308.

(2) Every meeting of the board of reference shall be held *in camera*. 1946, c. 97, s. 6.

Meetings
in camera.

7. Upon the completion of the hearing, the board of reference shall report to the Minister. 1946, c. 97, s. 7.

Board of
reference
to report.

8.—(1) Where the report of the board of reference recommends the continuance in force of the contract of employment between the board and teacher, the Minister shall direct the continuance in force of the contract. 1946, c. 97, s. 8; 1949, c. 101, s. 2 (1).

Continu-
ance of
contract.

(2) Where the report of the board of reference recommends the discontinuance of the contract of employment, the Minister shall direct that the contract be discontinued at the end of such period as the board of reference has recommended or as the Minister deems advisable. 1949, c. 101, s. 2 (2).

Discontin-
ance of
contract.

9. A direction of the Minister made under section 4 or 8 shall be binding upon the board and the teacher to whom it is directed. 1946, c. 97, s. 9.

Direction of
Minister.

10.—(1) Where a board fails to comply with a direction of the Minister made under section 4 or 8, any amounts then or thereafter payable to the board under the authority of any Act of the Legislature shall not be paid to the board until it has complied with the direction.

Failure to
comply with
direction of
Minister.

(2) Where a teacher fails to comply with a direction of the Minister made under section 4 or 8, the Minister may suspend the certificate of qualification of the teacher for such period as he may deem advisable. 1946, c. 97, s. 10.

Idem.

11. Subject to the regulations, the chairman may determine and fix the costs of the board of reference including coun-

Costs.

sel fees and other expenses incurred by each of the parties to the dispute and may make such order as to costs as he may deem proper and every such order may be enforced in the same manner as an order as to costs made in an action in a county or district court. 1946, c. 97, s. 11.

Regula-
tions.

12. The Lieutenant-Governor in Council may make regulations,

- (a) fixing the remuneration of chairmen and members of boards of reference and defining, prescribing and limiting other items of expense including travelling and living expenses which shall be included in the costs of a board of reference;
 - (b) regulating the practice and procedure to be followed upon any reference;
 - (c) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1946, c. 97, s. 12.
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CHAPTER 384

The Teachers' Superannuation Act**1. In this Act,**Interpreta-
tion.

- (a) "board" means board of public school trustees, board of separate school trustees, board of trustees of a continuation school, high school board, collegiate institute board or board of education;
- (b) "Commission" means Teachers' Superannuation Commission;
- (c) "Department" means Department of Education;
- (d) "employed" means engaged under contract for any period,
 - (i) as a teacher in a public school, separate school, continuation school, high school, collegiate institute, provincial normal school or a school to which *The Vocational Education Act* applies, Rev. Stat., c. 413.
 - (ii) as a teacher in a school or class supported in whole or in part by contributions from the Province or from a municipal corporation, and designated by the regulations,
 - (iii) as a teacher in a school outside of Ontario under a teachers' exchange system authorized by the Minister,
 - (iv) as a teacher in a school or class maintained for the instruction of discharged members of His Majesty's forces by the Government of Canada or Ontario, or both, and designated by the regulations, where the teacher has at his own option elected to come within this Act,
 - (v) as a teacher on the instructional staff of any normal school in Ontario, the Ontario College of Education, the University of Toronto Schools, the Ontario School for the Deaf, the Ontario School for the Blind, the Province of Ontario Correspondence Courses, the Royal Ontario Museum, or any railway-car school where the teacher has contributed to the fund for a period of at least one year.

- (vi) as an inspector or in any supervisory capacity by a board,
- (vii) as an officer of an association or body of teachers engaged in advancing the interests of education and designated by the regulations, or
- (viii) by the Minister or a board in any capacity designated by the regulations,

but no person shall be deemed to be employed who,

- (ix) is not qualified as a teacher under the Acts and regulations administered by the Department,
- (x) is engaged for less than 20 hours per week to teach music, art and crafts, physical and health education, home economics, industrial arts and crafts or any other special subject,
- (xi) is regularly engaged outside Ontario and who is performing services in Ontario under a teachers' exchange system approved by the Minister, or
- (xii) is a contributor to any fund to which the Crown contributes except the fund under this Act;

(e) "fund" means Teachers' Superannuation Fund;

(f) "Minister" means Minister of Education;

(g) "regulations" means regulations made under this Act;

(h) "Treasurer" means Treasurer of Ontario. 1949, c. 102, s. 1; 1950, c. 84, s. 1, *amended*.

Commission
continued;

2.—(1) The Teachers' and Inspectors' Superannuation Commission is continued under the name "Teachers' Superannuation Commission".

composition;

(2) The Commission shall be composed of,

- (a) five persons each of whom shall hold office for a period of three years and shall be appointed by the Minister; and
- (b) four persons who are contributors to the fund, each of whom shall hold office for a period of three years and shall be elected by ballot by the contributors to the fund,
 - (i) one of whom shall be elected from and by the members of The Federation of Women Teachers' Associations of Ontario,

- (ii) one of whom shall be elected from and by the members of The Ontario Secondary School Teachers' Federation,
- (iii) one of whom shall be elected from and by the members of The Ontario English Catholic Teachers' Association and L'Association de l'Enseignement Francais de l'Ontario, and
- (iv) one of whom shall be elected from and by the members of The Ontario Public School Men Teachers' Federation and the male public school inspectors.

(3) The Minister shall designate triennially one of the ^{chairman;} members as chairman.

(4) When a vacancy occurs among the members, another ^{vacancies;} member shall be appointed or elected, as the case may be, so soon as may be practicable after the vacancy occurs, and the person so appointed or elected shall hold office for the unexpired portion of the term of the member he replaces.

(5) Each member shall be eligible for re-appointment or ^{re-election,} re-election, as the case may be. ^{etc.;}

(6) Each member shall hold office until his successor is ^{term of} appointed or elected, as the case may be. ^{office;}

(7) The Commission shall meet in the offices of the Department of Education in Toronto on the third Friday in September, November and January, the Thursday following Easter, the third Saturday in June and at such other times as the chairman may determine. ^{meetings;}

(8) Six members shall constitute a quorum. 1949, c. 102, ^{quorum.} s. 2.

3. It shall be the duty of the Commission to administer ^{Duties} this Act and in so doing it shall determine the right of every ^{and powers.} applicant to receive an allowance or a refund and the amount thereof. 1949, c. 102, s. 3.

4. The Lieutenant-Governor in Council may appoint a ^{Officers,} secretary, an actuary, a solicitor, a medical referee and such ^{clerks, etc.} other officers and staff of the Commission as he may deem proper, all of whom shall be paid out of the fund. 1949, c. 102, s. 4.

5.—(1) The Teachers' and Inspectors' Superannuation Fund. Fund is continued under the name "Teachers' Superannuation Fund".

Custodian
of fund.

(2) The Treasurer shall be the custodian of the fund.

Actuarial
valuation.

(3) There shall be a triennial actuarial valuation of the fund, the next such valuation to be as of the 1st day of July, 1951, but the Minister may direct an additional valuation to be made at any time. 1949, c. 102, s. 5.

Receiving
gifts, etc.
for fund.

6. The Commission may receive any gift, devise or bequest made to, or for the purposes of the fund, and shall pay it or the proceeds thereof into the fund to be applied as directed by the donor, and if so directed, in additional benefits to those provided by this Act, or in the absence of any such direction, to the general purposes of the fund. 1949, c. 102, s. 6.

Issue of
Ontario
Government
stock
confirmed.

7.—(1) The issue by the Treasurer of Ontario Government stock in the sum of \$31,200,000 dated the 1st day of November, 1942, and bearing interest at the rate of four and three-quarters per cent per annum payable half-yearly and maturing on the 1st day of November, 1982, and being a charge upon the Consolidated Revenue Fund, is confirmed.

Debentures
authorized
annually,
1942-1952.

(2) In each year during the period commencing the 1st day of November, 1942, and ending on the 31st day of October, 1952, the Treasurer shall issue Ontario Government debentures or stock for the amount of the surplus funds in the fund accumulated and not required for current expenditures; such debentures or stock to become due and payable on the 31st day of October, 1952, and to bear interest at the rate of four and one-half per cent per annum payable half-yearly.

Forty-year
debentures
authorized,
1952.

(3) On the 1st day of November, 1952, the Treasurer shall issue Ontario Government debentures or stock for the amount of the surplus funds accumulated in the fund and not required for current expenditures and for the amount of the debentures or stock issued during the preceding ten-year period under subsection 2, such debentures or stock to become due and payable on the 31st day of October, 1992, and to bear interest at the rate of four and one-half per cent per annum payable half-yearly.

Debentures
authorized
annually,
1952-1962.

(4) In each year during the period commencing the 1st day of November, 1952, and ending on the 31st day of October, 1962, the Treasurer shall issue Ontario Government debentures or stock for the amount of the surplus funds in the fund accumulated and not required for current expenditures, such debentures or stock to become due and payable on the 31st day of October, 1962, and to bear interest at the rate of four and one-half per cent per annum payable half-yearly.

Forty-year
debentures
authorized,
1962.

(5) On the 1st day of November, 1962, the Treasurer shall issue Ontario Government debentures or stock for the amount

of the surplus funds accumulated and not required for current expenditure, such debentures or stock to become due and payable on the 31st day of October, 2002, and to bear interest at the rate of four and one-half per cent per annum payable half-yearly.

(6) In each year during each succeeding ten-year period the Treasurer shall issue Ontario Government debentures or stock for the amount of surplus funds in the fund accumulated from time to time and not required for current expenditures, such debentures or stock to become due and payable on the last day of such ten-year period and to bear interest, payable half-yearly, at a rate agreed upon at the beginning of such period between the Treasurer and the Commission and approved by the Lieutenant-Governor in Council as being applicable for that period.

Debentures
authorized,
ten-year
periods.

(7) On the 1st day of November, 1972, and on the 1st day of November of each succeeding ten-year period, the Treasurer shall issue Ontario Government debentures or stock for the amount of the surplus funds accumulated in the fund and not required for current expenditures and for the amount of the debentures or stock issued during the next preceding ten-year period under subsection 6, such debentures or stock to become due and payable at the end of a period of 40 years from the date of issue and to bear interest at the same rate as the debentures or stock issued under subsection 6 during the ten-year period next preceding the date of the issue of such forty-year debentures or stock.

Forty-year
debentures.

(8) The Ontario Government debentures and stock issued under this section shall be a charge upon the Consolidated Revenue Fund.

Charge on
Consolidated
Revenue
Fund.

(9) All securities belonging to the fund shall be deposited with the Treasurer who shall be responsible for their safe-keeping. 1949, c. 102, s. 7.

Securities to
be deposited.

8. When the payments into the fund in any year are insufficient to make the required payments out of the fund, the deficiency shall be made up out of the Consolidated Revenue Fund. 1949, c. 102, s. 8.

Deficiency.

9. Accounts shall be kept in which shall be entered all assets and liabilities and payments into and disbursements out of the fund. 1949, c. 102, s. 9.

Accounts.

10. The period from the 1st day of November to the 31st day of October of the year next following shall constitute the fiscal year of the Commission. 1949, c. 102, s. 10.

Fiscal year.

Interest.

11. Except where otherwise specifically provided by this Act,

- (a) interest payable under this Act or the regulations shall be at the rate of four and three-quarters per cent per annum, compounded half-yearly; and
- (b) interest shall be payable on any payment into or out of the fund, other than an allowance, which is six months or more in arrear. 1949, c. 102, s. 11.

Audit.

12.—(1) The accounts of the fund shall be audited and the securities in which the moneys of the fund may be invested shall be examined and checked in each year by the provincial Auditor or by such other auditor as the Lieutenant-Governor in Council may appoint, and the auditor shall make an annual report, and prepare and furnish such other statements to the Treasurer as he may require.

Costs and expenses of audit.

(2) The cost of such audits and reports shall be paid by the Commission out of the fund. 1949, c. 102, s. 12.

Annual report.

13.—(1) The Commission shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Commission.

Tabling report.

(2) The Provincial Secretary shall submit the report to the Lieutenant-Governor in Council and shall lay the report before the Assembly, if it is then in session, or if not, at the next ensuing session. 1949, c. 102, s. 13.

Payments into fund.

14. An account shall be kept in a chartered bank of Canada in the name of the Treasurer as custodian of the fund, and every amount received as a payment into the fund shall be deposited to the credit of such account. 1949, c. 102, s. 14.

Payments out of fund.

15.—(1) Every allowance, every refund, and the expenses of the administration of this Act shall be payable out of the fund and every such payment shall be made by the cheque of the Treasurer signed by him or by the Deputy Treasurer or by such other person as may be appointed by the Treasurer for that purpose, and countersigned by the chairman of the Commission or by any other member of the Commission designated by the Commission.

Days of employment to be indicated.

(2) The payee of a cheque for any allowance shall indicate on the back thereof the number of days, if any, he was employed during the month for which the cheque was issued, and if he fails to do so, the Commission may direct that no further allowance be paid him until he complies with this subsection. 1949, c. 102, s. 15.

16. The Treasurer, as custodian of the fund, may, at the request of the Minister, arrange for a chartered bank of Canada to advance to the fund, by way of overdraft or otherwise, any amount required temporarily to provide for payments out of the fund and may furnish securities of the Commission as security therefor, and every such advance shall be repaid within one year out of interest or contributions to the fund, or both. 1949, c. 102, s. 16. Bank loans.

17.—(1) Every person who is employed shall contribute to the fund six per cent of his salary. Contributions.

(2) Where the annual rate of salary is less than \$1,000 it shall, for the purposes of this section, be deemed to be at the annual rate of \$1,000. Salaries under \$1,000.

(3) In this section, "salary" includes cost of living or other bonus but does not include any additional remuneration for special services performed at evening classes. Interpretation.

(4) Where a person receives part of his salary in respect of employment of a type prescribed in subclauses i to viii of clause d of section 1 and part of his salary in respect of other employment, for the purposes of this Act, Salary from different sources.

(a) his salary shall be deemed to be only the amount of the salary that he receives in respect of such prescribed employment; and

(b) he shall be given credit for only that portion of each school year that bears the same proportion to the school year as the portion of his salary that he receives in respect of such prescribed employment bears to his total salary for such year. 1949, c. 102, s. 17.

18.—(1) Contributions shall be deducted by the board or other authority employing the person from each payment of his salary and the Treasurer shall annually deduct the total amount of such contributions from the total legislative grant payable to the board or other authority and place it to the credit of the fund, but if the amount of such grant is less than the total amount of such contributions the board or other authority shall pay the balance to the Treasurer, who shall place it to the credit of the fund. Contributions to be deducted.

(2) Every board and other authority shall report contributions to the Commission as if annual salaries were paid in 10 equal payments, the first of such payments being in respect of the period commencing the 1st day of September. 1949, c. 102, s. 18. Contributions to be reported to Commission.

Special cases.

19. In the case of a person who is a contributor to the fund and whose salary is paid by the Government of Ontario, the amount payable by such person shall be retained out of his salary and placed to the credit of the fund by the Treasurer. 1949, c. 102, s. 19.

When contributions may be made directly.

20. A person who,

- (a) ceases to be employed or is granted leave of absence from his employment without salary for any purpose and for any period permitted by the regulations;
- (b) is employed for 20 or more hours per week by two or more boards as a teacher or supervisor of music, art and crafts, physical and health education, home economics, industrial arts and crafts or any other special subject; or
- (c) is employed by a board that refuses or neglects to comply with section 18, or that by reason of non-compliance with any statute or regulation is not entitled to share in the legislative grant for the schools under its jurisdiction,

may contribute to the fund on such terms and conditions and at such times as the regulations may prescribe. 1949, c. 102, s. 20.

Error in tendering contribution.

21. Any contribution, except when made under clause *a* of section 20, that through error has not been received in the regular way and at the customary time may be subsequently accepted by the Commission. 1949, c. 102, s. 21.

Annual contributions by Province.

22. The Treasurer shall, annually and at the same time as contributions are placed to the credit of the fund under section 18, place to the credit of the fund sums equal to two-thirds of those contributed under section 17. 1949, c. 102, s. 22.

Interest.

23. All sums placed to the credit of the fund during any fiscal year shall be credited to the fund as of the 1st day of February in that fiscal year, and the Treasurer shall pay interest thereon for the period between the 1st day of February and the 31st day of July in each fiscal year at the rate payable upon loans issued for provincial purposes during such period as fixed by the Lieutenant-Governor in Council. 1949, c. 102, s. 23.

Retirement at 62 after 35 years service. A pension.

24. (1) Every person who,

- (a) has credit in the fund for 35 or more school years;
- (b) is 62 or more years of age; and

(c) has ceased to be employed,

shall be entitled to an annual superannuation allowance during his lifetime.

(2) The amount of such allowance shall be computed by Amount. dividing the amount of his average salary for the last 15 years for which he made contributions to the fund by 50 and multiplying the quotient by a number equal to the number of school years for which he has credit in the fund, but not exceeding 35, provided that,

(a) for the purpose of computing the amount of such allowance,

(i) each school year for which his contributions are in the fund at the time of his application for an allowance shall count as a school year of credit,

(ii) each school year for which he made contributions to a municipal or school board fund before the 1st day of April, 1917, which contributions are in the fund at the time of his application for an allowance, shall count as a school year of credit,

(iii) each school year for which he was employed before the 1st day of April, 1917, other than the years referred to in subclause ii, shall count as one-half school year of credit, and

(iv) each school year for which he made contributions to the Public Service Superannuation Fund, which contributions are in the fund at the time of his application for an allowance, shall count as a school year of credit;

(b) if the amount of such allowance as computed is less than \$600, it shall be \$600; and

(c) if the amount of such allowance as computed is more than \$3,000, it shall be \$3,000. 1949, c. 102, s. 24.

25.—(1) Every person who,

(a) has credit in the fund for 40 or more school years; and

Retirement
after 40
years
service. "A"
pension.

(b) has ceased to be employed,

shall be entitled to an annual superannuation allowance during his lifetime.

(2) The amount of such allowance shall be computed in Amount. the manner prescribed by subsection 2 of section 24 but no

such allowance shall be less than \$600 or more than \$3,000. 1949, c. 102, s. 25.

Retirement
after 30
years
service, "B"
pension.

26.—(1) Every person who,

(a) has credit in the fund for 30 or more school years;
and

(b) has ceased to be employed,

shall be entitled to an annual superannuation allowance during his lifetime.

Amount.

(2) The amount of such allowance shall be computed in the manner prescribed by subsection 2 of section 24 but shall be subject to such reduction as may be prescribed by the regulations having regard to the length of service and to the age of the applicant, provided that no such allowance shall be less than \$600 or more than \$3,000. 1949, c. 102, s. 26.

Retirement
after
25 years
service, "B"
pension.

27.—(1) Every person who,

(a) has credit in the fund for 25 or more but less than 30 years;

(b) has been employed for five years or more after attaining the age of 55 years; and

(c) after attaining the age of 62 years has ceased to be employed,

shall be entitled to an annual superannuation allowance during his lifetime.

Amount.

(2) The amount of such allowance shall be computed in the manner prescribed in subsection 2 of section 24 but shall be subject to such reduction as may be prescribed in the regulations having regard to the length of service of the applicant, provided that no such allowance shall be less than \$600 or more than \$3,000. 1949, c. 102, s. 27.

Retirement
on account
of total
permanent
disability,
"C" pension.

28.—(1) Every person who,

(a) has credit in the fund for 15 or more school years;

(b) while employed becomes mentally or physically incapacitated to a degree that in the opinion of the Commission renders him incapable of further earning his livelihood; and

(c) makes application therefor within two years from the date upon which he was last employed,

shall, subject to section 42, be entitled to an annual disability allowance during his lifetime.

(2) The amount of such allowance shall be computed in the ^{Amount.} manner prescribed by subsection 2 of section 24 but no such allowance shall be less than \$600 or more than \$3,000. 1949, c. 102, s. 28.

29.—(1) Every person who,

- (a) has credit in the fund for 15 or more school years;
- (b) while employed becomes mentally or physically incapacitated to a degree that in the opinion of the Commission renders him incapable of being further employed as a teacher or inspector; and
- (c) makes application therefor within two years from the date upon which he was last employed,

shall, subject to section 42, be entitled to an annual disability allowance during his lifetime.

^{Amount.}

(2) The amount of such allowance shall be computed in the manner prescribed by subsection 2 of section 24 but shall be subject to such reduction as may be prescribed by the regulations having regard to the length of service and to the age of the applicant, provided that no such allowance shall be less than \$600 or more than \$3,000. 1949, c. 102, s. 29.

30.—(1) Where the medical examination prescribed for admission to the Ontario College of Education or a normal school discloses in any person a mental or physical impairment, defect or condition that in the opinion of the examiner does not render such person incapable of being employed but might subsequently render him incapable of being employed, such person shall be admitted to the college or school only after he signs a consent, in the prescribed form, to have this section applied to him in the event of his becoming employed.

^{Person with impairment.}

(2) Every person who has signed a consent under subsection 1 and who,

- (a) has credit in the fund for 15 or more school years;
- (b) while employed becomes mentally or physically incapacitated to a degree that in the opinion of the Commission renders him incapable of being further employed; and
- (c) makes application therefor within two years from the date upon which he was last employed,

^{Allowance.}

shall, subject to section 42, be entitled to an annual disability allowance during his lifetime. 1949, c. 102, s. 30 (1, 2).

Amount.

(3) The amount of such allowance shall be,

R.S.C. 1927,
c. 7.

- (a) in the case of a person who has credit in the fund for less than 25 school years, an amount equal to that which would be payable under an annuity issued under the *Government Annuities Act* (Canada) purchased at the rates in force at the date of such application with an amount equal to all the contributions made by him to the fund together with those made on his behalf by the Treasurer; and
- (b) in the case of a person who has credit in the fund for 25 or more school years,
 - (i) the amount that he would be entitled to receive under section 24, 25, 26 or 27, or
 - (ii) the amount computed in the manner prescribed by clause a,

whichever is the larger. 1949, c. 102, s. 30 (3); 1950, c. 84, s. 2.

Dependant's
allowance,
"D" pension.

31.—(1) Where a male person who has credit in the fund for 15 or more years dies while employed or within two years after ceasing to be employed on account of ill-health, or within one year after ceasing to be employed for any reason other than ill-health during which year he manifested to the satisfaction of the Commission a *bona fide* intention of becoming employed as soon as possible, or where a male person who is in receipt of an allowance dies,

- (a) leaving a widow, a dependant's allowance of an amount equal to,
 - (i) one-half of the allowance computed in the manner prescribed in subsection 2 of section 24, but based on the person's credit in the fund at the time of his death, or
 - (ii) one-half of the allowance that the person was receiving at the date of his death,

as the case may be, shall be paid to his widow during her lifetime or during her widowhood, and where the widow dies or marries leaving a child or children who at the date of her death or marriage is or are under the age of 18 years, a dependant's allowance of an amount equal to that paid to the widow shall be paid to the child or children until such age is attained; or

- (b) leaving no widow but leaving a child or children under the age of 18 years, a dependant's allowance of an amount equal to,

(i) one-half of the allowance computed in the manner prescribed in subsection 2 of section 24 but based on the person's credit in the fund at the time of his death, or

(ii) one-half of the allowance that the person was receiving at the date of his death,

as the case may be, shall be paid to such child or children until such age is attained. 1949, c. 102, s. 31 (1); 1950, c. 84, s. 3 (1).

(2) Subsection 1 shall not apply to the widow of a person if she married him after he attained the age of 60 years or after the date of his retirement, or to the children of any such widow. Exceptions.

(3) Where the widow was at least 10 years younger than her deceased husband, the payments under subsection 1 shall be reduced in such manner and in such amount as the regulations may prescribe. Where dependant's allowance to be reduced.

(4) This section shall apply *mutatis mutandis* to the widower of a female person where, Where person is a female.

(a) the widower was permanently incapacitated and wholly supported by the deceased wife at the time of her death or at the time of her cessation of employment, whichever was the earlier;

(b) she had been married to the widower for at least 10 years at the time of her death or at the time of her cessation of employment, whichever was the earlier; and

(c) this child or children, if any, were fully supported by the person at the time of her death. 1949, c. 102, s. 31 (2-4).

(5) This section shall apply *mutatis mutandis* to the child or children of a female person, Children of deceased female teachers.

(a) who was a widow at the time of her death; or

(b) who was married at the time of her death and who supported such child or children at the time of her death, where the widower is not entitled to an allowance under subsection 4.

(6) In this section, "child" includes adopted child and step-child and "children" has a corresponding meaning. 1950, c. 84, s. 3 (2). Interpretation.

(7) The minimum payment under this section shall be at the rate of \$300 per annum. 1949, c. 102, s. 31 (6). Minimum dependant's allowance.

Annuity in lieu of annual allowance.

32.—(1) A person to whom section 31 cannot apply may by a direction in writing signed by him and deposited with the Commission at least two years before he ceases to be employed, direct that the allowance to which he would be entitled shall be converted and paid as an annuity to him upon his retirement for his lifetime and after his death, at one-half the rate to any dependant named in any such direction.

Where direction not given.

(2) A person who has not given a direction within the time prescribed in subsection 1, may at a later date, but not after making application for an allowance, give such a direction upon passing a medical examination satisfactory to the Commission.

Revocation of direction.

(3) A person who has given a direction under this section may, at any time before he ceases to be employed, revoke such direction.

Where direction not effective.

(4) Where a person who has given a direction under this section dies,

(a) before he makes application for an allowance; or

(b) before he ceases to be employed,

the direction shall have no effect. 1949, c. 102, s. 32.

Applications for allowances.

33. An allowance under this Act shall be made only after the receipt by the Commission of an application therefor in the prescribed form. 1949, c. 102, s. 33.

Proof of disability.

34. No application for a disability allowance shall be considered by the Commission until the Commission has obtained,

(a) the certificate of a legally qualified medical practitioner designated by the Commission, certifying that while employed the applicant became mentally or physically incapacitated and indicating the nature and degree of the incapacitation; and

(b) the report of the medical referee of the Commission containing such recommendations as he may deem proper with regard to the granting of an allowance to the applicant. 1949, c. 102, s. 34.

Only one allowance to be received.

35. A person shall not be entitled to receive at any one time more than one allowance under this Act. 1949, c. 102, s. 35.

Allowances to be paid monthly.

36. Every allowance shall be payable in monthly instalments and shall be apportionable to the date of death. 1949, c. 102, s. 36.

37.—(1) Every allowance shall commence as of the first day of the month next following the month during which the applicant ceased to be employed, provided that a disability allowance shall not commence as of a date earlier than one year before the date upon which the completed application therefor reaches the Commission. Commencement of allowances, superannuation; disability;

(2) Every dependant's allowance shall commence as of the day following the death of the person in respect of whom it is payable. 1949, c. 102, s. 37. dependants.

38.—(1) Where a person who is receiving a superannuation or dependant's allowance becomes employed upon either a temporary or a permanent basis, he shall forthwith give notice in writing thereof to the Commission, and in default of so doing shall forfeit any further claim to any benefit under this Act unless the Commission otherwise directs. Re-employment.

(2) Where a person who is receiving a disability allowance becomes employed upon either a temporary or a permanent basis or becomes engaged as a teacher in any school or institution either within or outside of Ontario upon either a temporary or a permanent basis, he shall forthwith give notice in writing thereof to the Commission, and in default of so doing shall forfeit any further claim to any benefit under this Act unless the Commission otherwise directs. 1949, c. 102, s. 38. Idem.

39.—(1) Where a person who is receiving a superannuation or dependant's allowance becomes employed, Re-employment, effect.

- (a) the allowance shall cease to be paid; and
- (b) he shall contribute to the fund during the period that he is employed.

(2) Where a person who is receiving a disability allowance becomes employed, Idem.

- (a) the allowance shall cease to be paid;
- (b) he shall contribute to the fund during the period that he is employed; and
- (c) he shall repay to the fund the amount of the allowance received by him, with accumulated interest.

(3) Where a person who is receiving a disability allowance becomes engaged as a teacher in any school or institution either within or outside of Ontario but is not employed within the meaning of clause *d* of section 1, Idem.

- (a) the allowance shall cease to be paid; and

- (b) he shall repay to the fund the amount of the allowance received by him, with accumulated interest. 1949, c. 102, s. 39.

Resumption
of super-
annuation
allowance.

40.—(1) Where a person who ceased to receive a superannuation allowance because of re-employment again ceases to be employed,

- (a) in the case of a person who has been re-employed for a period of less than two school years, payment of the allowance shall be resumed without any adjustment in the amount thereof, upon receipt by the Commission of a notice in writing of the cessation of employment;
- (b) in the case of a person who has been so employed for a period of two or more school years an application for an allowance shall be treated as an application for a new allowance; and
- (c) in no case shall he be entitled to receive a disability allowance. 1949, c. 102, s. 40.

Resumption
of depen-
dant's
allowance.

(2) Where a person who ceased to receive a dependant's allowance because of employment ceases to be employed, payment of the allowance shall be resumed upon receipt by the Commission of a notice in writing of the cessation of employment. 1950, c. 84, s. 4.

Recipient of
disability
allowance
becoming
employed.

41. Where a person receiving a disability allowance becomes employed or becomes engaged as a teacher within or outside of Ontario,

- (a) any application subsequently made for an allowance shall be treated as an application for a new allowance; and
- (b) any allowance or refund of contributions that he may subsequently become entitled to receive shall be reduced actuarially by any amount that he has failed to repay to the fund in accordance with section 39. 1949, c. 102, s. 41.

Evidence of
mental or
physical
condition.

42.—(1) The Commission may at any time require any person who,

- (a) is receiving a disability allowance under section 28 or 29; or
- (b) having been employed for less than 30 years, is receiving a disability allowance under section 30; or
- (c) being a widower, is receiving a dependant's allowance;

to furnish evidence, in such form as it may direct, of his mental or physical condition.

(2) Where the person fails to furnish evidence that his mental or physical condition continues to be of a nature that would entitle him to receive an allowance under the section pursuant to which his allowance is paid, the Commission may direct that the allowance shall cease to be paid and that no further allowance shall be paid to him or that such other allowance as the Commission finds him to be entitled to shall be paid to him. 1949, c. 102, s. 42.

Failure to
furnish
evidence.

43. Where the Commission is satisfied that a person to whom an allowance is payable under this Act is incapable of managing his own affairs, the Commission may direct that any cheque for moneys payable to him shall be made payable to a member of his family or household and in that case the endorsement of the cheque by the person so designated by the Commission shall be a sufficient discharge of the fund to the extent of such payment. 1949, c. 102, s. 43.

Where payee
incapable.

44. The interest of any person in the fund and in any allowance under this Act shall not be subject to garnishment, attachment, seizure or other process of law and shall not be assignable. 1949, c. 102, s. 44.

No attach-
ment, etc.

45.—(1) Any refund under this Act shall be made only after the receipt by the Commission of an application therefor in the prescribed form. 1949, c. 102, s. 45 (1).

Refunds,
application
for.

(2) Every refund shall be paid in a lump sum unless the person to whom it is payable, or where he has died, his personal representative, states in the application that he wishes the amount to be paid in instalments, in which case the amount shall be paid in three equal instalments without additional interest on the days fixed by the Commission for the purpose. 1950, c. 84, s. 5.

Manner of
payment.

46.—(1) A person who has been employed for five or more school years and ceases to be employed by withdrawing from the profession shall be entitled to a refund of an amount equal to the whole of his contributions to the fund, and where he ceased to be employed before the 31st day of March, 1949, with interest at the rate of one and one-half per cent per annum compounded half-yearly from the date of cessation of employment to that date, but no such refund shall be made until three months have elapsed after the date upon which the person ceased to be employed. 1949, c. 102, s. 46 (1).

Retirement
after 5 years.

Forced
retirement.

(2) A person who has been employed for 15 or more school years and who, because he has reached the age limit specified in a by-law or resolution of the board or other authority employing him, ceases to be employed before he becomes entitled to an allowance under this Act, shall be entitled to a refund of an amount equal to the amounts contributed by him to the fund with interest to the date of refund at the rate of four per cent per annum compounded half-yearly. 1949, c. 102, s. 46 (2); 1950, c. 84, s. 6.

When
employment
deemed
to end.

(3) For the purposes of this section the date upon which a person shall be deemed to have ceased to be employed shall be the last day for which he was paid in the last school year during which he was employed for 20 days or more. 1949, c. 102, s. 46 (3).

Second
refund.

47. A person who has withdrawn his contributions from the fund and subsequently is employed for an additional period of five years or more and ceases to be so employed after the 31st day of March, 1949, shall be entitled to a refund of an amount equal to the whole of his contributions to the fund during such additional period, but no such refund shall be made until three months have elapsed after the date upon which he ceased to be employed. 1949, c. 102, s. 47.

Repayment
of refund
on re-
employment.

48. A person who has withdrawn his contributions from the fund and subsequently is employed for not fewer than 20 days in a school year and desires to be reinstated in the fund in respect of his former period of employment, may be so reinstated by paying into the fund within five years from the date he commenced the subsequent period of employment or before the 1st day of April, 1954, whichever is the later date, the amount previously refunded to him, and any disability or superannuation allowance or other payment out of the fund to which he may be entitled during the period of repayment shall be reduced actuarially during his lifetime by the amount withdrawn and not repaid, and if he does not comply with this section he shall have no interest in the fund in respect of his former period of employment. 1950, c. 84, s. 7.

Where em-
ployed under
5 years.

49. Where a person ceases to be employed before he has been employed for a period of five school years, the amount of his contributions shall remain in the fund and, unless he again is employed, he shall have no claim thereto. 1949, c. 102, s. 49.

Event of
death.

50. Where a person who ceased to be employed before he had been employed for a period of five school years dies within two years of such cessation of employment, his personal

representative shall be entitled to a refund of an amount equal to the amounts contributed by him to the fund with interest to the date of death at the rate of three per cent per annum compounded half-yearly. 1949, c. 102, s. 50.

51. Where a person who is in receipt of a superannuation allowance becomes employed, no refund in respect of his contributions made after his return to employment shall be made except upon his death. 1949, c. 102, s. 51.

Return to employment.

52. Notwithstanding sections 49, 50 and 51, a person who has been employed for fewer than 20 days in any school year shall be entitled to a refund of an amount equal to the whole of his contributions to the fund for that school year, without interest. 1949, c. 102, s. 52.

Where employed less than 20 days.

53. Where a person who has been employed for five or more years and who is not in receipt of an allowance dies and no dependant's allowance becomes payable on his death, his personal representative shall be entitled to a refund of an amount equal to the amounts contributed by him to the fund with interest to the date of death at the rate of three per cent per annum compounded half-yearly. 1949, c. 102, s. 53; 1950, c. 84, s. 8.

Death before receiving allowance.

54. Where a person who is in receipt of an allowance dies and no dependant's allowance becomes payable on his death, his personal representative shall be entitled to a refund of an amount equal to the amounts contributed by the person to the fund with interest to the date of death at the rate of three per cent per annum compounded half-yearly, reduced by an amount equal to the amounts paid out of the fund to the person with interest to the date of death at the rate of three per cent per annum compounded half-yearly. 1949, c. 102, s. 54; 1950, c. 84, s. 9.

Death after becoming entitled to allowance.

55. A person whose allowance ceased to be paid under section 42, other than a widower under section 31, shall be entitled to a refund out of the fund of an amount equal to the amounts contributed by him to the fund with interest at the rate of three per cent per annum compounded half-yearly, reduced by an amount equal to the amounts paid out of the fund to him with interest at the rate of three per cent per annum compounded half-yearly. 1949, c. 102, s. 55.

Refund where disability allowance ceased to be paid.

56. Where the payments made under section 31, or the amount of the allowance and any payments made under section 31, as the case may be, with interest at three per cent per annum compounded half-yearly to the date of cessation

Refund where dependant's allowance less than contributions.

of the payments, are less than the amount of the contributions of the person, with interest at three per cent per annum compounded half-yearly to the same date, the amount of the difference shall be paid to his personal representative. 1949, c. 102, s. 56.

Regulations.

57. The Lieutenant-Governor in Council may make regulations,

- (a) designating schools or classes within the meaning of subclause ii of clause *d* of section 1 or within the meaning of subclause iv of clause *d* of section 1;
- (b) designating associations or bodies of teachers within the meaning of subclause vii of clause *d* of section 1;
- (c) designating capacities within the meaning of subclause viii of clause *d* of section 1;
- (d) prescribing the powers and duties of the officers of the Commission, or any of them;
- (e) prescribing the manner in which the nomination and election of the elected members of the Commission shall be conducted;
- (f) prescribing the form and manner in which and by whom the accounts and records of the Commission shall be kept;
- (g) prescribing the terms and conditions and times that persons may contribute to the fund under section 20;
- (h) prescribing the form of application for any allowance or refund and the information and material to be furnished therewith, including the form thereof, and prescribing other information and material that shall be taken into consideration by the Commission in considering applications for allowances or refunds;
- (i) prescribing the procedure to be followed by the Commission in considering and disposing of applications for allowances or refunds;
- (j) requiring persons who are contributors to the fund or persons who are receiving allowances from the fund, and boards, to furnish information to or for the use of the Commission and prescribing the form thereof;
- (k) authorizing the Commission to require persons who are contributors to the fund or persons who are receiving allowances from the fund, and boards, to

furnish information to or for the use of the Commission and prescribing the form thereof;

- (l) prescribing the system of reductions that shall be applied in computing the allowances provided for in sections 26, 27 and 29;
- (m) prescribing the manner and amount of reduction of payments provided for in subsection 3 of section 31;
- (n) prescribing the manner of calculating the rates and amounts of annuities payable under section 32;
- (o) governing persons who are absent from duty because of ill-health or for the purpose of taking any course of study designated by the regulations or approved by the Commission, or for a period of sabbatical leave under the by-laws of the employing board;
- (p) prescribing the conditions under which credit may be given under the Act for teaching or inspectorial services performed,
 - (i) in any province of Canada,
 - (ii) in any other part of the Commonwealth of Nations, or
 - (iii) in any school for Indians maintained by the Government of Canada,

where the person is subsequently employed within the meaning of this Act, and prescribing the amount of such credit;

- (q) providing for payment out of the fund into a like fund under a superannuation plan in any other province of Canada or in any other part of the Commonwealth of Nations on behalf of a teacher or inspector formerly employed in Ontario who has become a teacher or inspector in such other province or part;
- (r) prescribing special provisions governing the conditions under which persons in receipt of allowances may become employed during any period that is declared by the regulations to be a period during which there is urgent need for their services and providing for reductions in the allowances paid to them;
- (s) prescribing special provisions in respect of active service in His Majesty's forces or special war service or time spent receiving medical or surgical treatment

for a disability sustained while on active service or special war service, including,

- (i) the defining of active service and special war service,
- (ii) the contributions required or permitted to be made in respect of such periods and the time and manner of making such contributions,
- (iii) the credit to be given for periods spent in such service or while receiving such treatment,
- (iv) generally such provisions as may be necessary to extend to persons employed the benefits available under this Act in respect of such periods;
- (t) respecting persons employed in schools whose board or teachers, or both, are reported by the Minister to the Commission as having failed to comply with any Acts or regulations administered by the Department including,
 - (i) the terms and conditions upon which contributions shall be made to the fund,
 - (ii) the credit to be given to such persons in respect of the period of non-compliance;
- (u) prescribing forms for use under this Act and the regulations;
- (v) respecting any right or class thereof that is deemed to be prejudicially affected by the repeal of *The Teachers' and Inspectors' Superannuation Act, 1946* and the substitution of *The Teachers' Superannuation Act, 1949* or this Act;
- (w) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1949, c. 102, s. 57, *amended*.

Where
employment
ceases after
March 1st,
1949.

58.—(1) Where a person ceased to be employed after the 1st day of March, 1949, or hereafter ceases to be employed, his allowance shall be computed under this Act.

Where
employment
ceased before
March 1st,
1949.

(2) Where a person ceased to be employed before the 1st day of March, 1949, his allowance shall be computed under the predecessor of this Act that was in force when he ceased to be employed without regard to any maximum expressed in dollars then applicable and shall be increased at the rate of \$120 per annum, and where the amount of any such allowance after such increase has been added is less than \$600, it shall be \$600. 1949, c. 102, s. 63; 1950, c. 84, s. 11, *amended*.

CHAPTER 385

The Teaching Profession Act

1. In this Act,Interpreta-
tion.

- (a) "Board of Governors" means Board of Governors of the Federation;
- (b) "Department" means Department of Education;
- (c) "executive" means executive of the Federation;
- (d) "Federation" means Ontario Teachers' Federation;
- (e) "member" means a member of the Federation;
- (f) "Minister" means Minister of Education;
- (g) "regulations" means regulations made under this Act;
- (h) "teacher" means a person who is legally qualified to teach in a public school, separate school, continuation school, high school, collegiate institute or vocational school and is under contract to teach in such a school but does not include an inspector, an instructor in a teacher-training institution or a person employed to teach in a school for a period not exceeding one month;
- (i) "board of trustees" means board of education, board of high school trustees, board of public school trustees or board of separate school trustees. 1944, c. 64, s. 1.

2. The federation of teachers known as The Ontario Teachers' Federation is continued as a body corporate. 1944, c. 64, s. 2, *amended*.

Objects.

3. The objects of the Federation shall be,

- (a) to promote and advance the cause of education;
- (b) to raise the status of the teaching profession;
- (c) to promote and advance the interests of teachers and to secure conditions which will make possible the best professional service;

- (d) to arouse and increase public interest in educational affairs; and
- (e) to co-operate with other teachers' organizations throughout the world having the same or like objects. 1944, c. 64, s. 3.

Membership
in Federa-
tion.

4.—(1) Every teacher shall be a member of the Federation except,

1944, c. 64.

- (a) a teacher who has withdrawn from membership under subsection 1 or 2 of section 4 of *The Teaching Profession Act, 1944*;
- (b) a teacher who,
 - (i) at any time during World War II was a member of His Majesty's forces or engaged on special war service designated by the regulations, and
 - (ii) at the time of entering the forces or becoming engaged on such service was a teacher or was training to be a teacher at a provincial normal school or the Ontario College of Education, and
 - (iii) notifies the Minister and the secretary of the Board of Governors of his withdrawal from membership by registered letter posted not later than six months after he ceases to be in the forces or on special war service. 1944, c. 64, s. 4; 1947, c. 107, s. 1, *amended*.

Associate
members.

(2) Every student in a normal school or in the Ontario College of Education shall be an associate member of the Federation. 1950, c. 85, s. 1.

Board of
Governors.

5.—(1) There shall be a Board of Governors of the Federation which shall be composed of 40 members as follows:

- (a) the immediate past president, the president, the first vice-president, the second vice-president and the secretary-treasurer of The Ontario Secondary School Teachers' Federation, The Federation of Women Teachers' Associations of Ontario and The Ontario Public School Men Teachers' Federation, and five representatives of each of such federations, who shall be elected annually at the annual meeting of their federation;
- (b) five representatives of L'Association de l'Enseignement Francais de l'Ontario, who shall be elected

annually at the annual meeting of the Association;
and

- (c) five representatives of The Ontario English Catholic Teachers' Association, who shall be elected annually at the annual meeting of the Association.

(2) The members of the Board of Governors shall take office at the conclusion of the annual meeting of the Federation and shall hold office until their successors take office. ^{Term of office.}

(3) If a vacancy occurs on the Board of Governors it shall be filled by the executive of the affiliated body which the person who vacated the office represented and the person so named to fill the vacancy shall hold office for the remainder of the term of the person who vacated the office. 1948, c. 91, s. 1, *part.* ^{Vacancies.}

6.—(1) There shall be an executive of the Federation which shall be composed of nine members as follows: ^{Executive.}

- (a) the immediate past president, the president, the first vice-president, the second vice-president and the third vice-president of the Federation;

- (b) one representative of The Ontario Secondary School Teachers' Federation, one representative of The Federation of Women Teachers' Associations of Ontario and one representative of The Ontario Public School Men Teachers' Federation, who shall be elected annually at the annual meeting of the Board of Governors from among its members; and

- (c) the secretary-treasurer of the Federation.

(2) The members of the executive shall take office at the conclusion of the annual meeting of the Federation and shall hold office until their successors take office. ^{Term of office.}

(3) If a vacancy occurs on the executive it may be filled by the Board of Governors from among its members who represent the affiliated body which the person who vacated the office represented, and the person so named shall hold office for the remainder of the term of the person who vacated the office. 1948, c. 91, s. 1, *part.* ^{Vacancies.}

7. There shall be a president, a first vice-president, a second vice-president and a third vice-president of the Federation who shall be elected annually at the annual meeting of the Board of Governors from among its members in such a manner that the offices of the immediate past president, president, first ^{President and vice-presidents.}

vice-president, second vice-president and third vice-president shall represent each of the affiliated bodies. 1948, c. 91, s. 1, *part.*

Secretary-treasurer.

8. There shall be a secretary-treasurer of the Federation appointed by the Board of Governors who may be a member of the Board of Governors and who shall receive such remuneration as may be fixed by the Board of Governors, 1948, c. 91, s. 1, *part.*

Functions of executive.

9. The executive shall be responsible for carrying on the business of the Federation and may,

- (a) subject to the approval of the Minister, acquire and hold in the name of the Federation such real and personal property as may be necessary for the purposes of the Federation and may alienate, mortgage, lease or otherwise dispose of such property as occasion may require;
- (b) invest the funds of the Federation in any securities in which a trustee is authorized to invest money in his hands under *The Trustee Act*;
- (c) make such grants as it deems advisable to organizations having the same or like objects as the Federation. 1944, c. 64, s. 7.

Rev. Stat., c. 400.

Conferences.

10. In the interests of the advancement of education and the improvement of teaching conditions in Ontario, the Board of Governors shall meet annually and confer with the Minister and the senior officials of the Department on matters touching and concerning the objects of the Federation, and the Board of Governors shall at such meeting and may at any other time make such representations and recommendations either of a general nature or which relate to any particular school, teacher or matter as it deems advisable and as are in keeping with the objects of the Federation. 1944, c. 64, s. 8.

Collection of fees.

11. The prescribed membership fee shall be deducted by the board of trustees from the salary of each teacher for the month of November or for the first month thereafter in which the teacher begins a term of employment and shall be forwarded to the treasurer of the Federation. 1944, c. 64, s. 9.

Regulations.

12. Subject to the approval of the Lieutenant-Governor in Council, the Board of Governors may make regulations,

- (a) prescribing a code of ethics for teachers;
- (b) prescribing the fees to be paid by members of the Federation;

- (c) providing for voluntary membership in the Federation of persons who are not members thereof and prescribing the duties, responsibilities and privileges of voluntary members;
 - (d) prescribing the duties, responsibilities and privileges of associate members;
 - (e) providing for the suspension and expulsion of members from the Federation and other disciplinary measures;
 - (f) designating the services and organizations which shall be deemed to be special war services for the purposes of clause *b* of subsection 1 of section 4;
 - (g) providing for the holding of meetings of the Board of Governors and of the executive and prescribing the manner of calling and the notice to be given in respect of such meetings;
 - (h) prescribing the procedure to be followed at meetings of the Board of Governors and of the executive;
 - (i) providing for the payment of necessary expenses to the members of the Board of Governors and the executive;
 - (j) conferring powers upon or extending or restricting the powers of and prescribing the duties of the Board of Governors and of the executive;
 - (k) providing for the appointment of standing and special committees;
 - (l) providing for the establishment of branches of the Federation or of the recognition by the Federation of local bodies, groups or associations of teachers which shall be affiliated with the Federation. 1944, c. 64, s. 10; 1947, c. 107, s. 2; 1948, c. 91, s. 2; 1950, c. 85, s. 2.
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CHAPTER 386

The Telegraph Act

1. Subject to *The Public Service Works on Highways Act*, every telegraph association or company, subject to the legislative authority of Ontario, and incorporated under chapter 67 of the Consolidated Statutes of Canada, 1859, or under any general Act passed subsequently thereto, and prior to *The Companies Act*, being chapter 34 of the Statutes of Ontario, 1907, may construct the lines of telegraph designated in its instrument of incorporation upon any lands purchased by the company, or the right to carry its line over which has been conceded to it by the person having a right to make such concession, and along and upon any of the public roads and highways, or across any of the waters within Ontario by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the wires or cables of the lines, provided the same are not so constructed as to incommode the public use of such roads or highways, or to impede the free access to any house or other building erected in the vicinity of the same, or injuriously to interrupt the navigation of such waters. R.S.O. 1937, c. 254, s. 1.

Powers for the construction of the line.
Rev. Stat., c. 318.
1907, c. 34.

2. Nothing herein shall confer on any such association or company the right of building a bridge over any navigable water. R.S.O. 1937, c. 254, s. 2.

No right to build bridge over navigable water.

3. The person or company owning or operating any telegraph line shall, except in the cases provided for in section 4, transmit all despatches in the order in which they are received, under a penalty of not less than \$20 and not more than \$100, to be recovered by any person whose despatch has been postponed out of its order. R.S.O. 1937, c. 254, s. 3.

Duties of company in transmitting despatches.

4. Any message in relation to the administration of justice, the arrest of criminals, the discovery or prevention of crime, and Government messages or despatches, shall always be transmitted in preference to any other message or despatch, if required by persons connected with the administration of justice, or any person thereunto authorized by the Provincial Secretary. R.S.O. 1937, c. 254, s. 4,

What messages entitled to preference.

Temporary assumption of the line by Government.

5. His Majesty may, at any time, assume, and for any length of time retain possession of any such telegraph line and of all things necessary to the efficient working thereof, and may for the same time require the exclusive service of the operators and other persons employed in working the line, and the person or company owning or operating the line shall give up possession thereof, and the operators and other persons so employed shall, during the time of such possession of His Majesty, diligently and faithfully obey such orders, and receive and transmit such despatches as they may be required to receive and transmit by any duly authorized officer of the Government of Ontario, under a penalty of not more than \$100 for any refusal or neglect to comply with the requirements of this section, to be recovered by the Crown for the public uses of Ontario. R.S.O. 1937, c. 254, s. 5.

Assumption of the property of the line by Government.

6.—(1) His Majesty, at any time after two months notice to the company or owner of the telegraph line, may assume the possession and property thereof, and thereupon the line and all the property, real or personal, essential to the working thereof, and all the rights and privileges of the company or owner as regards the same shall be vested in the Crown.

Mode of settling the compensation in case of disagreement.

Rev. Stat., c. 323.

(2) If a difference arises between the company or owner and the Crown as to the compensation to be paid therefor, or for the temporary exclusive use thereof under section 5, the difference shall be determined in the manner provided by *The Public Works Act* in the case of land taken without the consent of the owner. R.S.O. 1937, c. 254, s. 6.

Power of municipal corporations and joint stock companies to hold shares.

7.—(1) Any municipal corporation or a joint stock company incorporated under any Act of the late Province of Canada or of Ontario, may subscribe for and hold shares in any telegraph company mentioned in section 1, and may pay the amount of such subscription out of any funds not specially appropriated to any other purpose.

Power of municipality to raise funds, and to vote.

(2) Such municipal corporation may levy money by rate for paying any such subscription, and, subject to the instrument of incorporation and the by-laws of the telegraph company, may vote upon the shares held by it in such manner and through the intervention of such person or officer as may be determined by the council of the municipal corporation or by the joint stock company. R.S.O. 1937, c. 254, s. 7.

Telephone companies.

8. This Act shall not apply to telephone companies. R.S.O. 1937, c. 254, s. 8.

CHAPTER 387

The Telephone Act

1. In this Act,

Interpre-
tation.

- (a) "Board" means Ontario Municipal Board;
- (b) "company" includes an incorporated company, municipal corporation, commission, association, partnership, individual or aggregation of individuals owning, controlling or operating, or who may propose to own, control or operate a telephone system or line within Ontario;
- (c) "cost of establishing and maintaining any system or extension thereof" means not only the cost of constructing, erecting and installing the system, but also the cost of such improvement or strengthening of it, or any extension thereof, as may be necessary or expedient by the addition of switchboard equipment, poles, cables, wires, cross-arms, insulators and other appliances, or by the application of such work or labour as may be deemed necessary or expedient by the Board or the initiating municipality, or the commissioners, as the case may be, to enable it to give the subscribers efficient telephone service;
- (d) "extension" and "extended" include and apply to any works necessary for furnishing telephone service to any person by an existing telephone system;
- (e) "initiating municipality" means a municipal corporation which has established or proposes to establish a telephone system under this Act;
- (f) "maintenance" and "maintaining" include repairs, switchboard operation, superintendence and management of the system;
- (g) "special Act" means any Act of the Legislature authorizing the construction of a telephone system or line and with which this Act is incorporated, and includes letters patent incorporating a telephone company, and supplementary letters patent relating to such a company issued under the authority of any Act of the Legislature;

- (h) "subscriber" means every person who, being a land-owner, signs a petition to the council of a municipality praying for the establishment or extension of a telephone system which is afterwards established or extended pursuant to the petition, or upon whose property an annual special rate is or may be levied and collected for the purpose of paying the cost of establishing and maintaining the system or any extension thereof, or any reconstruction, replacement or alteration of the system or any part thereof, and includes a person who having been a subscriber as last above defined has fully paid all annual special rates in respect of the establishment of a system or of its extension and the cost of maintenance during the period for which debentures have been issued to pay the cost of the establishment or extension, and continues thereafter to take telephone service from the system on the basis of paying such charges therefor as may be approved by the Board;
- (i) "system" means a telephone system established under this or any former Act;
- (j) "toll" includes any toll, rate, rental, or charge for the transmission of telephone messages or for the use of telephone instruments, or circuits, or for the supply of telephone service. R.S.O. 1937, c. 261, s. 1.

PART I

TELEPHONE SYSTEM OPERATED AS A PUBLIC UTILITY

Establishment and operation of telephone business as public utility.

2.—(1) The corporation of every urban municipality may establish and carry on a telephone business as a public utility, and for the purposes of such business may construct, maintain and operate in, over, under, upon or across the highways, lanes, parks, squares and other public ways, passages and places in the municipality, or in, over, under, upon or across the land of any person therein, an underground or overhead or partly underground and partly overhead telephone system, and do all things necessary or convenient for that purpose including the issue of debentures to meet the cost of the same.

Debentures, assent of electors required.

(2) Any by-law authorizing the issue of debentures, and any by-law authorizing the assumption of any outstanding debentures issued in respect of a system established under Part II which is passed by the council of a municipal corporation in the exercise of the powers conferred by this section or by sections 3 or 4, shall not be valid until it has received the assent of the electors qualified to vote on money by-laws as required by *The Municipal Act*. R.S.O. 1937, c. 261, s. 2.

Rev. Stat., c. 243.

3. The corporation may for the purpose of establishing or carrying on such business acquire, by purchase or lease or, subject to the provisions of Part II in that behalf, may expropriate any telephone system in the municipality (hereinafter designated the initiating municipality) established under any former or other Act or under Part II. R.S.O. 1937, c. 261, s. 3. Acquisition of existing systems.

4. Where a system established under Part II is acquired by a municipality under section 3 the debentures theretofore issued under Part II and then outstanding and unpaid shall cease to be a charge upon the lands of the respective subscribers or any of them and the same as they mature and fall due and the interest upon them shall be met and paid by a rate to be imposed by the corporation upon all the rateable property in the municipality. R.S.O. 1937, c. 261, s. 4. Debentures of acquired system to be paid by municipality.

5. Where parts of any building in the municipality are owned or occupied by different persons the corporation may carry wires to any part of such building, and for that purpose may pass over or through or under the property belonging to any owner, or in the possession of any tenant or occupant. R.S.O. 1937, c. 261, s. 5. Right of passage where building has more than one owner or occupant.

6. Parts III and IV of *The Public Utilities Act* shall, *mutatis mutandis*, apply to a corporation so establishing and carrying on a telephone system and the expression "public utility" where it occurs in said Parts III and IV, includes telephone service. R.S.O. 1937, c. 261, s. 6. Provisions of Rev. Stat., c. 320 to apply.

7. Where a municipal corporation has heretofore constructed, purchased or acquired or hereafter constructs, purchases or acquires a telephone system under this Part or where such corporation has undertaken the construction, purchase or acquisition of a telephone system, and it appears that the cost of the construction, purchase or acquisition has exceeded or will exceed the amount already provided for that purpose or where it is deemed expedient by the council of the municipal corporation from time to time to construct an extension or extensions or any improvement or improvements of the telephone system, the council may pass a by-law or by-laws for borrowing such further or other sum or sums as may be necessary to extend, improve or complete the telephone system or for the purchase or acquisition of the same or to meet the cost of extensions or improvements already made to the telephone system; and Borrowing money for extension or acquisition.

- (a) the by-law shall not require the assent of the electors if it is passed by a vote of three-fourths of all the members of the council and is approved by the Board; and

- (b) such approval may be given if it is shown to the satisfaction of the Board that the expenditure proposed to be made for any such extension or improvement, or for the completion of the telephone system or the purchase or acquisition is necessary, and that a sufficient revenue or sufficient additional revenue will be derived therefrom to meet the annual payments in respect of such debt and the interest thereon or where it is made to appear to the Board that the net revenue derived from the telephone system justifies the construction of such extension or improvement. R.S.O. 1937, c. 261, s. 7.

Application of certain sections in Parts II, V and VI.

8. Sections 17, 18, 19, 32, 33, 34, 35, 36, 45, 71, 72, 73, 74, 75 and 79 of Part II and Parts V and VI shall, *mutatis mutandis*, apply to a municipal corporation carrying on a telephone business as a public utility under this Part. R.S.O. 1937, c. 261, s. 8.

Powers of Board.

9. The Board shall have and may exercise in respect of a telephone business established and carried on as a public utility under this Part all powers and authority which it has and may exercise in respect of a system established and carried on under Part II. R.S.O. 1937, c. 261, s. 9.

PART II

LOCAL MUNICIPAL TELEPHONE SYSTEMS

Establishment and Extension of Systems

Petition for establishment of system.

10. A petition signed by not less than 10 assessed landowners may be presented to the council of any local municipality praying for the establishment of a telephone system. R.S.O. 1937, c. 261, s. 10.

Petition for extension of system.

11. A petition signed by one or more assessed landowners, may be presented to the council of a local municipality in which a telephone system is established under section 10 praying for an extension of the system so as to serve his or their premises respectively. R.S.O. 1937, c. 261, s. 11.

Particulars to be stated in petition; removal of names from petition.

12. A petition under section 10 or 11 shall set forth such particulars as the Board may require, and a signature after being affixed to the petition shall not be removed therefrom, except with the approval of the Board; provided, however, that no application for such approval shall be considered by the Board after the lapse of six months from the date of the passing of the by-law for the establishment of the system

or in the case of a petition for an extension to the system, after the lapse of six months from the date upon which the signature was affixed to the petition. R.S.O. 1937, c. 261, s. 12.

13. Where the petition for the establishment or extension of a system prays that the debentures of the initiating municipality shall be issued to pay the cost of the work, any additional landowner may, with the permission of the council or of the commissioners, as the case may be, at any time before the passage of the debenture by-law, affix his signature to the petition, and thereupon and thereafter the additional landowner shall have all the rights and be subject to all the obligations of the original signatories to the petition. R.S.O. 1937, c. 261, s. 13.

Adding
signatures
to petition
after pre-
sentation
to council.

14. The petition shall constitute a valid and binding contract on the part of each person signing it to repay to the initiating municipality his share of the cost of establishing or extending the system, as the case may be, and operating and maintaining the system. R.S.O. 1937, c. 261, s. 14.

Petition to
constitute a
contract.

15. Upon the receipt of a petition praying for the establishment of a telephone system the council of the initiating municipality may by by-law, at the expense of the subscribers, and subject to such conditions as may be set forth in the by-law, provide for the establishment of the system and for the maintenance and operation of the system. R.S.O. 1937, c. 261, s. 15.

By-law for
establish-
ment of
system.

16. After the establishment of a system the initiating municipality may from time to time, upon the receipt of a petition praying for an extension of the system, construct any extension as may seem expedient and necessary for the purpose of supplying telephone service to the petitioners. R.S.O. 1937, c. 261, s. 16.

Construc-
tion of
extensions.

17. The council of the initiating municipality may, from time to time extend the system into another municipality with the consent of the council of such other municipality, or with the approval of the Board on the petition of 10 assessed landowners of such other municipality. R.S.O. 1937, c. 261, s. 17.

Extension
of system
into another
municipality.

18. Subject to section 84, the council of the initiating municipality may, with the consent of the Board, extend the system into an unorganized township, and the part of the unorganized township into which the system is extended, to be defined by the Board, shall, for the purposes of this Act, be deemed to be annexed to the initiating municipality,

Extension of
system into
unorganized
township.

and the council and officers thereof shall levy and collect all special rates under this Act and do all acts and perform all duties and be subject to the same liabilities in respect to such part of the unorganized township as, for the purposes of this Act, they may do, perform and are subject to with respect to the initiating municipality. R.S.O. 1937, c. 261, s. 18.

Approval
by Board
of by-law,
plans and
specifica-
tions.

19.—(1) The initiating municipality, before proceeding to establish a system, shall furnish to the Board a certified copy of the by-law providing for the establishment of the system, together with such plans, particulars of the cost of the work, and such other information as the Board may require, and no debt shall be incurred for the construction of the system, or for the purchase of material to be used in the construction until the Board has approved the by-law.

General
provisions
relating to
extensions.

(2) The by-law may provide in general terms for the making of extensions to the system from time to time thereafter, and upon the receipt of a petition for an extension the initiating municipality may from time to time construct the extension, and if any such extension requires the issue of debentures the by-law authorizing the issue shall recite the making of the extension, and shall adopt and confirm the same. R.S.O. 1937, c. 261, s. 19.

Location of
exchange or
switchboard
by initiating
municipality.

20. The initiating municipality shall, with the approval of a majority of the subscribers present at a special general meeting duly called, determine the location of any exchange or switchboard of the system, and any relocation of the same from time to time. R.S.O. 1937, c. 261, s. 20.

Location of
exchange or
switchboard
by Board.

21. In case of the failure to determine the location or relocation of any exchange or switchboard under section 20, the Board may determine the location or relocation of the same. R.S.O. 1937, c. 261, s. 21.

Ownership
of system.

22. Every telephone system established or extended under this Part shall be vested in the initiating municipality in trust for the benefit of the subscribers, and such municipality shall be liable for all the obligations of the system and shall have and may exercise all or any of the powers conferred on municipal corporations by Part I. R.S.O. 1937, c. 261, s. 22.

Sale of
telephone
system or
part.

23.—(1) Subject to the approval of a majority of the subscribers present in person or represented by proxy at a special general meeting of the subscribers called for the purpose, and subject to the approval of the Board, the council of an initiating municipality in which a telephone system established under this Part is vested may by by-law provide for the sale and disposal of the whole or any part of the telephone system.

(2) The proceeds of sale shall, under the direction of the Board, be applied and used in payment of outstanding debenture debt and other indebtedness and liabilities incurred with respect to the telephone system. Use of proceeds to discharge debts.

(3) The proceeds of sale not required for the purposes mentioned in subsection 2 shall, under the direction of the Board, Disposition of surplus.

(a) in the case of a sale of part only of the telephone system, belong to the system and be applied and used according to the Board's directions; and

(b) in the case of a sale of the whole of the telephone system, belong to the subscribers and be distributed among them in such manner and on such basis in respect of their separate interests as the Board may direct and, in the event of dispute, as the Board may determine.

(4) Where from absence or loss of records or other cause, the council of an initiating municipality is unable to ascertain who are the subscribers and is therefore unable to obtain their consent to a sale of the whole or a part of a telephone system, the Board, upon proof of the fact, may authorize the sale, notwithstanding the absence of consent of subscribers, and the proceeds of sale shall, subject to subsection 2, Where subscribers are unknown.

(a) in the case of a sale of part only of the system, belong to the system and be applied and used according to the Board's directions; and

(b) in the case of a sale of the whole of the system, be held, applied, used, distributed and disposed of as and when the Board may authorize and approve.

1949, c. 103, s. 1.

Borrowing Powers and Debentures

24. Where the subscribers or a majority of them, in the petition for the establishment or extension of the system, pray that the payment of the cost of the work be extended over a period not exceeding 10 years, and that debentures of the initiating municipality be issued to pay the cost of the work, the council of the initiating municipality in the by-law providing for the establishment or extension of the system, or in a subsequent by-law, may provide for the issue of debentures payable within 10 years from the date of the issue thereof, and that the proceeds of the debentures shall be applied in payment of the cost of establishing or extending the system as the case may be, and for levying a special rate upon the Issuing debentures for cost of work.

property of the subscribers sufficient to discharge any debt so incurred in equal annual instalments of principal and interest: R.S.O. 1937, c. 261, s. 23.

Assent of
electors not
required.

25. The debentures shall be issued on the credit of the initiating municipality, and it shall not be necessary that the by-law authorizing their issue be submitted for the assent of the electors, but the by-law shall not be valid until approved by the Board. R.S.O. 1937, c. 261, s. 24.

Agreement
with bank
for advances.

26. The initiating municipality may agree with any bank, person or body corporate for temporary advances to meet the cost of the work until the completion thereof, and may then pass the necessary by-law authorizing the issue of debentures, out of the proceeds of which the temporary advances shall be paid, but the by-law for the issue of debentures shall be passed not later than two years after the passing of the by-law for the establishment or extension of the system as the case may be, and the debentures shall be issued within twelve months after the passing of the by-law authorizing the issue of the debentures; provided, however, that the Board may extend beyond two years the period within which the by-law for the issuing of debentures may be passed and may extend beyond twelve months the period within which the debentures may be issued, and such extension of time may be granted although the application therefor is not made until after the expiration of such period of two years or twelve months, and in such case the by-law may be passed or the debentures issued within the extended time. R.S.O. 1937, c. 261, s. 25 (1).

Granting
extension of
time for
passing of
by-law or
issue of
debentures.

Extension
of debenture
period.

27. Where the subscribers, or a majority of them, by petition to the council of the initiating municipality, pray that the payment of the cost of the work be extended over a period exceeding 10 years, the Board may authorize the council to provide by by-law that the payment of the debentures to be issued may be extended over a period exceeding 10 years, and in determining the length of such period the Board shall have regard to the character of the construction of such work and its probable durability; provided, however, that this section shall not apply to any system where the sum required to discharge the principal and interest of the debentures and to pay the cost of maintenance does not exceed \$12 per year for each subscriber. R.S.O. 1937, c. 261, s. 26.

Reconstruction,
replacement or
alteration of
system.

28.—(1) Where in the opinion of the council of the initiating municipality or the commissioners of a system, as the case may be, it is necessary or expedient to reconstruct, replace or alter the system or any part thereof, and to issue

the debentures of the initiating municipality to meet the cost of the same, the council of the initiating municipality may, with the approval of the Board, and without a petition from the subscribers or any of them, pass a by-law authorizing the doing of the work and the issue of debentures for that purpose, and it shall not be necessary that the by-law be submitted for the assent of the electors.

(2) The Board shall fix and determine the period within which the debentures to be issued shall be made payable and the landowners who shall defray the cost of such reconstruction, replacement or alteration, and the lands upon and in respect of which the special rate shall be levied to discharge the debenture debt so incurred, with interest.

(3) The provisions of this Act as to debentures shall apply to debentures issued under this section. R.S.O. 1937, c. 261, s. 27.

29. The initiating municipality may, with the approval of the Board and without obtaining the assent of the ratepayers, pass by-laws authorizing the issue of debentures to meet the cost of making an extension or extensions to the system for the purpose of furnishing service to persons not being assessed landowners, but before approving of any such by-law the Board shall be satisfied that such extension or extensions is or are necessary and that a sufficient additional revenue will be derived therefrom to meet the annual payments of principal and interest in respect of the debt created by the issue of such debentures. R.S.O. 1937, c. 261, s. 28.

30. Where the initiating municipality has been ordered by the Board to construct works under this Act, such works shall be deemed to be an extension of the telephone system of such municipality, and the council of the initiating municipality shall have and may exercise in respect of such works the like powers as are vested in the council by this Act in respect of the construction of an extension of the system and the issue of debentures to meet the cost of the same, and such powers may be exercised without a petition from the subscribers to the system or any of them. R.S.O. 1937, c. 261, s. 29.

31. Where the debentures of the initiating municipality issued to pay for the cost of establishing or extending a system are payable within 10 years from the date of issue, then, notwithstanding anything in any Act or in the by-law authorizing the issue of such debentures, the council of the initiating municipality may, upon the petition of a majority of the subscribers, by by-law provide that a portion or portions

of the principal of such debentures to fall due in any year or years may at maturity be liquidated by the issue of new debentures of the municipality, and it shall not be necessary for the municipality to provide by a sinking fund or otherwise for the payment of the portion or portions of the principal so falling due in such year or years, and the new debentures shall be payable at latest within 20 years from the date of issue of the first-named debentures, and the by-law or by-laws authorizing the issue of the new debentures shall make provision according to law for the payment of the same at maturity with interest, and shall not require the assent of the electors; but no such by-law or by-laws providing for the issue of new debentures shall be passed where the annual special rate levied upon any subscriber is less than \$12, and in no case shall such a by-law take effect until it has been approved by the Board. R.S.O. 1937, c. 261, s. 30.

Purchase and Expropriation of Systems

Purchase by municipality of existing system.

32. By agreement with the owner the initiating municipality may, with the approval of the Board, acquire by purchase any existing telephone system operated in the municipality or any portion thereof, and also any part of such system situate in another municipality with the consent of the council of such other municipality, and failing such consent with the approval of the Board. R.S.O. 1937, c. 261, s. 31.

Acquisition of telephone company's system by agreement or expropriation.

33. For the establishment or extension of any system or to avoid duplication of systems or any part thereof, the initiating municipality may offer to purchase at a fixed price from a telephone company its system or any part thereof, and if the company does not accept the price so offered within one month from the date of the offer the initiating municipality may expropriate the system or the part thereof which it offered to purchase and the compensation to be made upon such expropriation shall be determined by the Board. R.S.O. 1937, c. 261, s. 32.

Damages resulting from severance.

34. In fixing the price to be offered or the compensation to be made, where part only of a telephone system is proposed to be purchased or expropriated there shall be included in the price or compensation as the case may be, a sum sufficient to compensate the owner of the system for any damages directly resulting from severance. R.S.O. 1937, c. 261, s. 33.

Arbitration by Board where parties fail to agree.

35. When a municipality owning and operating or intending to own and operate a telephone system has taken proceedings under this Act to acquire a part of the telephone system of a municipality operating in the first-named municipality

or in an adjoining municipality and the parties are unable to agree upon the price to be paid for the system the Board shall have full power and authority to settle the terms and conditions of such acquisition including the price to be paid and all other matters proper to be taken into consideration and adjusted in the premises. R.S.O. 1937, c. 261, s. 34.

36. Where the council of the initiating municipality acquires by purchase or expropriation an existing telephone system or part thereof, the powers vested by this Act in the council of the initiating municipality as to borrowing by way of temporary advances and in respect of the issue of debentures for the establishment or extension of a telephone system may be exercised by the council of the initiating municipality for the purpose of defraying the cost of such purchase. R.S.O. 1937, c. 261, s. 35.

Powers of council to borrow money and to issue debentures.

Cost of Establishment, Extension and Maintenance

37. The cost of establishment of a system or of any extension thereto shall be defrayed by the subscribers whose signatures are affixed to the petition for such establishment or extension in equal proportions or in such other proportions as may be fixed by the council of the initiating municipality with the approval of the Board, and in case of default in payment by any subscriber of the amount so fixed the same may be collected as an ordinary debt by action against the person liable therefor or may be added to the collector's roll as taxes due from him and may be collected in the same manner as other taxes. R.S.O. 1937, c. 261, s. 36.

Liability of subscribers.

38. Where the subscribers have prayed that debentures of the initiating municipality be issued to pay the cost of the work, the annual special rates assessed against the land of a subscriber shall be a charge upon the land designated by the subscriber in the petition for the establishment or extension of a system (and being land owned by the subscriber when he signed the petition), and shall, notwithstanding a change in the ownership of the land, continue to be a charge thereon until the rates have been fully paid, and the special rates may, as they become payable, be collected as an ordinary debt by action against the person liable therefor, or may be placed upon the collector's roll against the land as taxes due from the owner of the land and may be collected in the same manner as other taxes, and this section shall apply to all special rates heretofore and hereafter assessed against any lands under this Act. R.S.O. 1937, c. 261, s. 37.

Special rate a charge on land.

39. Any subscriber where property is liable to be specially assessed to discharge debentures issued to meet the cost of

Commutation of special rate.

the work may commute for a payment in cash the special rates assessable against his property forthwith after the actual cost of the work and the proportion of the cost payable by the subscriber have been ascertained. R.S.O. 1937, c. 261, s. 38.

Cost of maintenance.

40. - (1) The cost of maintenance of a system shall be defrayed by the subscribers in equal proportions or in such other proportions as may be fixed by the Board and shall be a charge on the lands of the several subscribers apportioned as above, and may be collected in the same manner and with the same remedies as the cost of the establishment or extension of a system or as any special rate assessed against the land of a subscriber in respect of the cost.

Collection of tolls paid to other companies for subscribers.

(2) Any tolls or moneys paid by the initiating municipality to any other system or company for telephone service furnished by such system or company to any subscriber of the initiating municipality shall be a charge upon the land of the subscriber and may be collected by the initiating municipality in the same manner and by the same remedies as the cost of the maintenance of a system. R.S.O. 1937, c. 261, s. 39.

Release of subscribers from liability.

41. Where debentures have been issued to meet the cost of establishing or extending a system, the instalments of principal and interest in repayment of which debentures are a charge upon the land of a subscriber whose name is set out in the schedule to the by-law providing for the issue of such debentures and the period for which such debentures have been issued has expired, any such subscriber who has fully paid his share of all instalments of principal and interest due under the by-law together with all other charges payable by him in respect of the system, including his proportionate part of any debt from the subscribers to the initiating municipality arising under section 28 or 42 for which he may be liable, shall thereafter be released and discharged from all liability in respect of the system, except any liability which may arise under any further or other contract made by him or by reason of his continuing to take telephone service or of such service being reinstated upon his premises. R.S.O. 1937, c. 261, s. 40.

Deficiency in any year, how made up.

42. If the amount collected from the subscribers, together with any other revenue derived from the operation of the system is insufficient in any year to meet the instalment of principal and interest falling due, and the cost of maintenance, the deficiency shall be paid out of the general funds of the initiating municipality, and the amount so paid shall constitute a debt due from the subscribers to the initiating municipi-

pality and may be collected in the same manner as any other debt due by the subscribers under this Act. R.S.O. 1937, c. 261, s. 41.

43. If the share of the cost to each subscriber to any extension of a system is less than the share of the cost to each subscriber to the establishment of the original system, the initiating municipality may charge each subscriber to the extension the same annual amount, and for the like term of years, as was charged each subscriber to the establishment of the original system, and the difference between the last-mentioned amount and the cost to each subscriber to the extension, shall be applied by the initiating municipality towards the cost of the maintenance of the system, including any extensions of the system. R.S.O. 1937, c. 261, s. 42.

Equalizing
charges
against
subscribers.

44. If the share of the cost to each subscriber to any extension of a system is more than the share of the cost to each subscriber to the establishment of the original system, the initiating municipality may, with the approval of the Board, and subject to such conditions as the Board may prescribe, levy upon the property of each subscriber to the extension such annual special rate as in the opinion of the Board will be sufficient to discharge the debt incurred by reason of the extension, in equal annual instalments of principal and interest. R.S.O. 1937, c. 261, s. 43.

Special
rate for
extensions.

45. In the event of a question arising as to the validity of any special rate levied under this Act, the same shall be determined by the Board on an application to it for that purpose, and the determination of the Board shall be final and conclusive. R.S.O. 1937, c. 261, s. 44.

Validity of
rate.

46. The initiating municipality, or where commissioners have been elected, the commissioners may prescribe the terms on which a person not being a subscriber may procure his premises to be connected with the system, and the rate at which he may receive telephone service, and any such rate which has heretofore or may hereafter be approved by the Board may be collected in the same manner and with the like remedies as a rate due and unpaid by the subscriber. R.S.O. 1937, c. 261, s. 45.

Prescribing
terms of
connection.

Telephone Commissioners

47. Until the subscribers of a telephone system petition or requisition the council of the initiating municipality as hereinafter provided, the system shall be under the control and management of the council. R.S.O. 1937, c. 261, s. 46.

Council to
manage
system.

Petition
for manage-
ment by
commis-
sioners.

48. Upon the petition of a majority of the subscribers or upon a requisition assented to by a two-thirds vote of the subscribers present at a general meeting duly called, the council of the initiating municipality shall place the system under the control and management of three commissioners to be designated "The Commissioners for the Telephone System of the Municipality of", a majority of whom may exercise all the powers of the commissioners. R.S.O. 1937, c. 261, s. 47.

Election of
commis-
sioners.

49. Except as authorized under clause *d* of section 57 the commissioners shall be elected each year at the annual general meeting of the subscribers, or at a general meeting called for the purpose, and the commissioners shall hold office until their successors are elected as provided herein. R.S.O. 1937, c. 261, s. 48.

Only a
subscriber
may be
commis-
sioner.

50. No person shall be eligible for election as a commissioner unless he is a subscriber to the system as herein defined. R.S.O. 1937, c. 261, s. 49.

Disqualifi-
cation for
office of
commissioner
and auditor.

51.—(1) No assessor, collector, treasurer, clerk or member, other than the head, of the council of an initiating municipality and no person having himself or by or with or through another an interest, other than that of a subscriber, in any contract relating to the construction or maintenance of the system or in any contract for the supply of goods or materials to a contractor for work in connection with the system for which the initiating municipality or the commissioners are liable directly or indirectly to pay or who has an unpaid claim for such construction or maintenance, goods or materials, shall be eligible to be elected a commissioner or auditor, but the foregoing shall not render a commissioner ineligible to be appointed secretary or treasurer or secretary-treasurer of a telephone system at a salary to be fixed by the commissioners for such system.

Application
to other
municipality.

(2) This section shall apply to a municipality into which the initiating municipality may extend its system. R.S.O. 1937, c. 261, s. 50.

Filling
vacancies
in office
of commis-
sioner.

52. Where a vacancy in the office of commissioner occurs from resignation, death or incapacity to act, the council of the initiating municipality shall, with the approval of the Board, immediately appoint a successor who shall hold office for the remainder of the term for which his predecessor was elected or appointed. R.S.O. 1937, c. 261, s. 51.

53. From and after the election of the commissioners for a system as herein provided, the control and management of the system shall be vested in the commissioners and all the provisions of this Act relative to the initiating municipality and the council thereof in respect of such system shall, except in so far as they or any of them are by this Act expressly excepted be applicable to the commissioners. R.S.O. 1937, c. 261, s. 52.

Powers of telephone commissioners.

54. The commissioners shall be paid such remuneration for their services as may be fixed by by-law passed as hereinafter prescribed. R.S.O. 1937, c. 261, s. 53.

Remuneration.

55. Nothing herein shall affect the ownership of the system which shall remain vested in the initiating municipality nor the authority and duty of the initiating municipality and its several officials, upon the requisition of the commissioners to provide from time to time all moneys required for the establishment and maintenance of the system or any extension thereof, nor the right of the initiating municipality to levy and collect all moneys and rates which may be due and owing from time to time by the subscribers. R.S.O. 1937, c. 261, s. 54.

Ownership of system and duties of initiating municipality.

56. The commissioners may procure to be given by the secretary or other officer employed by them such security as they may require for the faithful performance of his duties by such secretary or other officer, and for the duly accounting for and paying over all moneys which may come into his possession or control. R.S.O. 1937, c. 261, s. 55.

Security to be given by secretary, etc.

57. The commissioners of a system may pass by-laws not contrary to law or to this Act, to regulate,

By-laws.

- (a) the time and place at which the meetings of subscribers shall be held and the manner of calling and the procedure at the meetings;
- (b) the manner of election, duties and remuneration of the commissioners;
- (c) the control and management of the system;
- (d) the term of office of the commissioners by extending the term to three years so that at the first election of commissioners for a term of three years one of them shall hold office for a term of one year only, one of them for a term of two years and the remaining one for a term of three years; provided that a by-law for such purpose may not be repealed until after the expiration of the second year after that in which it was passed,

but such by-laws shall first be approved by the Board and as so approved may be confirmed at a general meeting of the subscribers called for the purpose or at the next annual meeting of the subscribers and until so confirmed shall not come into force. R.S.O. 1937, c. 261, s. 56.

Assumption
of control
of system
by council.

58. Upon a resolution adopted by a majority of all the subscribers of the system at a special general meeting duly called, requiring the council of the initiating municipality to take over the control and management of the system, the council may, with the approval of the Board, pass a by-law for that purpose, and thereupon the commissioners, their officers, servants and agents shall hand over to the council or some official designated by it, all the property of the system of whatever kind and all moneys, vouchers, books, papers, documents and memoranda relating to the system in their possession, and thereafter the control and management of the system shall be vested in the initiating municipality and the council thereof. R.S.O. 1937, c. 261, s. 57.

Meetings of Subscribers

Annual
meeting.

59. Every system established under this Part shall hold a general meeting of its subscribers in each year not later than the 1st day of March, or at such other time as may be approved by the Board. R.S.O. 1937, c. 261, s. 58; 1949, c. 103, s. 2.

Financial
statement
to be sent
to sub-
scribers.

60. Not less than 10 days before the day fixed for holding the annual meeting a financial statement shall be sent by prepaid post or delivered to each subscriber and to each member of the council of the initiating municipality containing,

- (a) a balance sheet showing in sufficient detail the assets and liabilities of the system as of the 31st day of December last past;
- (b) an abstract of the income and expenditure of the system for the financial year ending on the 31st day of December last past;
- (c) a copy of the report of the auditor or auditors for the year ending on the 31st day of December last past;
- (d) such other information respecting the system as the by-laws may require or the Board prescribe. R.S.O. 1937, c. 261, s. 59.

Statement
to be
submitted
to meeting.

61. The financial statement in section 60 shall be submitted to the subscribers at the annual general meeting. R.S.O. 1937, c. 261, s. 60.

62. In default of other express provision in the by-laws Notice. of the system, notice of the time and place for holding any general meeting of the subscribers shall be given at least 10 days previously thereto by registered letter to each subscriber at his last known address. R.S.O. 1937, c. 261, s. 61.

63. A notice of every general meeting of the subscribers shall be sent by prepaid post or delivered to each member of the council of the initiating municipality. Notice to council members. R.S.O. 1937, c. 261, s. 62.

64. All notices calling a general meeting of the subscribers and the financial statements above-mentioned shall be sent out by the commissioners or by their secretary or other officer, and where the system is under the control and management of the council, by the clerk of the initiating municipality. By whom notices of meeting to be sent. R.S.O. 1937, c. 261, s. 63.

65. The notice calling any special general meeting shall state the business which is to be transacted at it. Notice of special general meeting. R.S.O. 1937, c. 261, s. 64.

66. Upon receipt of a requisition in writing, signed by not less than one-tenth of the subscribers, setting forth the objects of the proposed meeting, the commissioners, by their secretary or other officer, or where the system is under the control and management of the council, the clerk of the initiating municipality, shall forthwith call a special general meeting of the subscribers for the transaction of the business mentioned in the requisition. Special general meeting called on requisition. R.S.O. 1937, c. 261, s. 65.

67. If the meeting is not called and held within 21 days from the date upon which the requisition was handed or sent by prepaid post to the chairman or secretary of the commissioners or to the clerk of the initiating municipality, as the case may be, one-tenth of the subscribers, whether they signed the requisition or not, may themselves by notice as herein provided call a special general meeting of the subscribers for the transaction of such business. Special general meeting called by subscribers. R.S.O. 1937, c. 261, s. 66.

68. The commissioners or the council of the initiating municipality, as the case may be, may of their own motion call a special general meeting of the subscribers for the transaction of any business. Special general meeting called by council, etc. R.S.O. 1937, c. 261, s. 67.

69. No person shall be entitled to vote at any general meeting unless he is a subscriber to the system; provided that any member of the council of the initiating municipality may Who may vote at general meetings.

attend any general meeting and take part in the deliberations thereat, but may not vote. R.S.O. 1937, c. 261, s. 68.

Quorum,
proxies.

70. The presence in person or by proxy of at least 50 subscribers or of one-fourth of all the subscribers, or the presence in person of at least 25 subscribers or one-tenth of all the subscribers shall be necessary to constitute a quorum at general meetings, and the instrument appointing a proxy shall be in writing under the hand of the appointer, or if such appointer is a corporation, under its common seal, and shall be attested by at least one witness, and no person shall be appointed a proxy who is not a subscriber. R.S.O. 1937, c. 261, s. 69.

Duties and Remuneration of Municipal Officials

Duties of
municipal
officials of
initiating
municipality.

71. When a telephone system is under the control and management of the initiating municipality the several officials of the municipality in their respective offices shall do and perform all acts, matters and things herein on their part respectively directed to be done and performed in respect of the system, and when the system is under the control and management of commissioners, the several officials respectively shall do and perform the acts, matters and things in like manner unless relieved therefrom by the commissioners. R.S.O. 1937, c. 261, s. 70.

Duties of
municipal
officials in
initiating
and other
municipalities.

72. Where a telephone system extends into a municipality other than the initiating municipality the clerk of the initiating municipality shall forthwith after its passing transmit to the clerk of the other municipality a certified copy of every debenture by-law charging with a rate the premises of any subscriber situate in the other municipality, and shall also in any year, when so required by the initiating municipality or the commissioners of the system, as the case may be, transmit to the clerk of the other municipality the amount payable by each such subscriber respectively, and the same shall be placed on the collector's roll of the other municipality, and shall be collected in the same manner as municipal taxes, and paid over to the treasurer of the initiating municipality. R.S.O. 1937, c. 261, s. 71.

Remunera-
tion.

73. The initiating municipality, or the commissioners, as the case may be, shall pay to the clerk, treasurer and collector of the municipality respectively, and to the clerk, treasurer and collector respectively of any other municipality into which its system extends, a reasonable remuneration for services performed by them or any of them under this Act, and such remuneration shall be fixed by agreement between the official

performing the service and the council of the municipality or the commissioners, as the case may be, and failing agreement, by the Board, on an application to it for that purpose. R.S.O. 1937, c. 261, s. 72.

74. The clerk, treasurer or collector of any municipality failing or neglecting to do and perform any act, matter or thing herein, or by any other Act or by order of the Board directed to be done and performed by them respectively, shall be liable to a penalty of \$50 to be recovered and enforced by order of the Board, or under *The Summary Convictions Act*. R.S.O. 1937, c. 261, s. 73. Penalties for breach of duty by municipal officials.
Rev. Stat., c. 379.

Books of Account

75.—(1) The council of the initiating municipality or the commissioners, as the case may be, shall cause proper books of account to be kept containing full and true statements of, Books of account to be kept.

- (a) the financial transactions in respect of the system;
- (b) the assets of the system;
- (c) the sums of money received and expended in respect of the system and the matters in respect of which such receipt and expenditure took place;
- (d) the credits and liabilities of the system,

and a book or books containing minutes of all the proceedings and votes at meetings of the council or of the commissioners and subscribers, respectively, verified by the signature of the reeve, chairman of the commissioners or other presiding officer, as the case may be.

(2) All moneys received in respect of the system shall forthwith be deposited in one of the chartered banks in an account in the name of the system and all expenditures in respect of the system shall be paid by cheque drawn upon such account signed by the head of the council and treasurer of the initiating municipality, or where the system is under the control and management of a commission, by its chairman and treasurer. R.S.O. 1937, c. 261, s. 74. Deposit and withdrawal of moneys.

Audit

76. The accounts of the system shall be examined at least once in every year and the correctness of the balance sheet shall be ascertained by the auditor or auditors of the initiating municipality, and where the system is under the control and management of commissioners, by an auditor or auditors, who shall be elected at the annual or other general meeting of the subscribers. R.S.O. 1937, c. 261, s. 75. Audit of accounts.

Filling
vacancies
in office
of auditor.

77. The council of the initiating municipality or the commissioners, as the case may be, may fill any casual vacancy in the office of auditor, and any auditor shall be eligible for reappointment. R.S.O. 1937, c. 261, s. 76.

Remunera-
tion of
auditor.

78. The remuneration of the auditor or auditors shall be fixed by the subscribers in general meeting, except that the remuneration of any auditor or auditors appointed to fill any casual vacancy, may be fixed by the council of the initiating municipality, or by the commissioners, as the case may be. R.S.O. 1937, c. 261, s. 77.

Limitation of Actions

Limitation
of action
against
corporation.

79. No action shall be brought against a municipal corporation or any of its officers, agents or servants for anything done or omitted in the construction, operation or maintenance of a telephone system, or in the exercise of any of the powers under this Act after the lapse of six months from the time when the cause of action arose. R.S.O. 1937, c. 261, s. 78.

PART III

GRANTS OF MUNICIPAL FRANCHISES

Grants of
right to use
highways.

80. The council of a county, village or township, with the approval of the Board, and the council of any other municipality, with the assent of the municipal electors, may pass a by-law or by-laws for granting to a telephone company, upon such terms and conditions as may be deemed expedient, the right to use any of the highways, squares or lanes under the jurisdiction of the council of such county, village, township or other municipality for placing in, upon, over or under the same, poles, cables, ducts and wires for the purpose of its business. R.S.O. 1937, c. 261, s. 79.

Exclusive
right to use
highways in
urban muni-
cipalities.

81. In the case of a city, town or village, the right mentioned in section 80 may be an exclusive right, limited to a period not exceeding five years at any one time. R.S.O. 1937, c. 261, s. 80.

Use of high-
way for pri-
vate tele-
phone line.

82. Notwithstanding a by-law passed under section 81, a council may grant to any person permission to use any of the highways, squares or lanes of the municipality, for the purpose of a private telephone line for the use of such person, his servants, clerks or agents, or persons communicating with him or them. R.S.O. 1937, c. 261, s. 81.

83. Subject to sections 80, 81 and 82, when the council of a municipality and a company are unable to agree as to the terms and conditions upon which the right to use the highways, squares or lanes in the municipality shall be granted, the council and the company may, by common consent, refer the matters in dispute to the Board, in which event the Board, after hearing the evidence of all persons interested, may prescribe such terms and conditions, and thereupon such terms and conditions shall be binding upon the corporation of the municipality and the company. R.S.O. 1937, c. 261, s. 82.

Board to determine differences as to use of highways.

84. In unincorporated territory the right to use, for the foregoing purposes, any highway or road allowance situated in a township without municipal organization may be granted by the Minister of Lands and Forests, upon such terms and conditions and subject to such rentals or charges as may be fixed by such Minister. R.S.O. 1937, c. 261, s. 83.

Right to use highways in unorganized townships.

PART IV

INCORPORATION OF COMPANIES

85. Every unincorporated association or partnership of persons, comprising five or more members or partners, owning or proposing to own a telephone system, and using or proposing to use a public highway or highways, for the purpose of furnishing telephone service to the members or partners of such unincorporated association or partnership, or any of them, or to other persons, shall procure to be issued to them letters patent under *The Companies Act*, creating them a corporation with share capital, for the purpose of carrying on the business of a telephone company. R.S.O. 1937, c. 261, s. 84.

Partnerships and unincorporated associations to be incorporated.

Rev. Stat., c. 59.

86. Every member or partner of such association or partnership shall have allotted to him shares in the company so incorporated of equal value to his share or interest in the association or partnership at the date upon which the charter of incorporation is granted, and if any dispute arises as to the value of his share or interest, it shall be determined by the Board. R.S.O. 1937, c. 261, s. 85.

Allotment of shares in company to members of partnership, etc.

87. In computing the value of the share or interest of any member or partner there shall be included, in addition to any money contributed by him for the purpose of such unincorporated association or partnership, the value of any poles, wires or other equipment, including the cost of installation, contributed by him, and for which such member has not been

How value of partners to be computed.

reimbursed, and thereafter the poles, wires or other equipment, as the case may be, shall be the property of the company. R.S.O. 1937, c. 261, s. 86.

By-laws to be approved by Board.

88. No by-law of an incorporated telephone company shall have any force or effect or be acted upon until approved by the Board. R.S.O. 1937, c. 261, s. 87.

Rev. Stat. c. 59, ss. 167-169 not to apply.

89. Sections 167 to 169 of *The Companies Act* shall not be applicable to telephone systems. R.S.O. 1937, c. 261, s. 88.

PART V

ALL TELEPHONE SYSTEMS

Equipment and Service

Efficient service to be furnished.

90. Every company shall furnish a prompt and efficient service and for the purpose of ensuring the same the Board may prescribe conditions and specifications for the construction, maintenance and equipment of all telephone systems and may make such orders for the maintenance thereof as the Board may from time to time determine to be expedient or necessary. R.S.O. 1937, c. 261, s. 89.

Conditions and specifications.

91. In prescribing such conditions and specifications, the Board shall take into consideration only such standards as in general practice have been found necessary for the protection of life and property, and for the provision of an efficient service to the public, without regard to any particular type of equipment or apparatus. R.S.O. 1937, c. 261, s. 90.

Repairs to equipment operated but not owned by company.

92. Where the telephone or other equipment operated in connection with the system of a company is not the property of the company, the owner of the telephone or other equipment shall keep and maintain the same in proper working order, and so as not to impair the efficient operation of the system, and in case such owner fails to do so, the company by its servants or agents may at all reasonable times and upon reasonable notice given or request made enter in and upon the premises upon which the telephone or other equipment is situate for the purpose of inspecting and repairing, and where necessary may repair the same, and the company may collect the cost of the repairs so made from the owner of the telephone or other equipment in like manner and with the like remedies as it may collect telephone rates. R.S.O. 1937, c. 261, s. 91.

Duplication of pole leads on highways.

93. No company shall erect poles upon or along or adjacent to and parallel with any portion of a highway upon or along

which the pole leads of another company are already erected, or otherwise by means of its system or any part thereof duplicate or compete with the system of any other company which furnishes telephone service in the same municipality or locality in which the first-mentioned company proposes to furnish such service, unless by consent of the Board. R.S.O. 1937, c. 261, s. 92.

94. When in the opinion of the Board the convenience of persons desiring telephone service requires the extension of a system upon or along a highway, upon or along which there is already a telephone pole lead, the Board may make such order as it may deem expedient for authorizing such extension, and preventing the unnecessary multiplication of pole leads upon or along such highway, and the order shall not be subject to appeal or be open to review except by the Board. R.S.O. 1937, c. 261, s. 93.

95. Notwithstanding anything in any Act, when any person makes application to a company for telephone service, the company shall furnish such telephone service upon terms to be agreed upon, and failing agreement, upon such terms and conditions as may be ordered by the Board, and no order made under this section shall be subject to appeal or to review except by the Board. R.S.O. 1937, c. 261, s. 94.

96. Where it is necessary for the purpose of carrying into effect any order of the Board made under this Act that a company should erect poles, cables, ducts or wires upon or along any road or highway under the jurisdiction of a town, village, county or township municipality, the company may, notwithstanding any limitations in the letters patent incorporating it or otherwise, erect the poles, cables, ducts and wires upon or along such road or highway upon such terms and conditions as may be agreed upon between the council of the municipality and the company, and if the council and the company are unable to agree, then upon such terms and conditions as shall be prescribed by the Board. R.S.O. 1937, c. 261, s. 95.

Connection of Telephone Systems

97. A company may enter into an agreement with any other company or with a commission furnishing telephone service to the public, whether such latter company or commission is under the jurisdiction of the Legislature or not, providing for the connection, intercommunication, joint operation or reciprocal use of the respective lines and systems controlled, owned or operated by such companies, or by such

company or commission, as the case may be, and for the transmission of business between the systems, and for the interchange of telephone messages and service passing to, from or over their lines and systems, and for the apportionment of tolls, commissions and expenditures, and the division of receipts and profits and generally for the regulation, management and operation of their lines and systems respectively, as between themselves and otherwise; but no such agreement shall have any validity or effect until approved by the Board. R.S.O. 1937, c. 261, s. 96.

Board may order connection, joint operations, etc.

98. When the telephone systems or lines of two or more companies are situate in such proximity to one another as to make it expedient in the public interest that they should be connected in order that there may be intercommunication between, or joint operation or reciprocal use of them, or that the systems or lines should be used jointly by the companies for the transmission of messages by or over the same, if either or any of such companies fail or refuse to enter into an agreement with the other or others, the Board shall order that such connection be made, and shall order by whom, and in what manner, any line or works necessary for the purpose of making such connection shall be constructed and maintained, and how the cost incurred in constructing and maintaining it or them shall be borne, and shall order that there shall be such intercommunication between, or joint operation or reciprocal use of, and such transmission of messages by or over the systems or lines, including any such connecting lines or works, upon such terms and conditions as the Board may prescribe, and the order shall not be subject to appeal or be open to review except by the Board. R.S.O. 1937, c. 261, s. 97.

Intercommunication by systems terminating on the switchboard of any company.

99. —(1) Where the lines of two or more telephone systems terminate upon the switchboard of a company, the company shall furnish all reasonable and proper facilities for the interchange of conversations between such telephone systems.

What facilities to be included.

(2) The facilities to be so afforded shall include the providing of suitable appliances and competent operators to connect the lines of such telephone systems, and the permitting of conversations to be transmitted without unreasonable delay over the lines so connected.

Terms.

(3) The terms upon which the facilities for the interchange of conversation between two or more telephone systems shall be afforded under this section shall be fixed by agreement between the companies interested, subject to the approval of the Board, and failing such agreement they shall be fixed by the Board. R.S.O. 1937, c. 261, s. 98.

100. Where the telephone system or lines of a company within the legislative jurisdiction of the Province and the system or lines of a telephone company within the jurisdiction of the Parliament of Canada are situate in such proximity to one another as to make it practicable for such systems or lines to be so connected as to provide direct communication whenever required, between any telephone on the one system or line and any telephone on the other system or line, either of such companies or any municipal corporation or other public body or any person interested may file with the secretary of the Board, and with the secretary of the Board of Transport Commissioners for Canada, an application for an order that such connection should be made together with evidence of service of the application upon the companies interested or affected, and the provisions of clauses *b, c, d* and *e* of subsection 1 of section 131 of *The Railways Act*, with the necessary adaptation, shall apply to every such application. R.S.O. 1937, c. 261, s. 99.

Intercommunication between Dominion and Provincial companies.

Rev. Stat. c. 331.

Sales and Agreements Increasing Cost of Service

101. A company shall not enter into an agreement with any other company having authority to construct or operate a telephone system or line, whether such authority is derived from the Legislature or not, which may have the effect of increasing the cost of telephone service to the public or of restricting competition in the supply of such service until the agreement has been submitted to and approved by the Board as just and reasonable. R.S.O. 1937, c. 261, s. 100.

Agreements restricting competition, or increasing cost of service.

102.—(1) No company shall sell or transfer its system or a controlling interest in it to any person or company, or amalgamate with any company or system, or enter into an agreement which shall, in effect, transfer the ownership or control of the system of the first-named company to any other company, whether the other company is within the jurisdiction of the Legislature or not, until the Board has approved the sale, transfer, amalgamation or agreement.

Sales or transfers of systems, etc.

(2) The Board may by its order cancel and determine any of the rights, powers and privileges possessed by or conferred upon any company, under the authority of this Act, if the company violates the provisions of section 101 or this section, and may by its order prohibit the company carrying on business as a telephone company under this Act. R.S.O. 1937, c. 261, s. 101.

Cancellation of powers of company.

Tolls

103. All tolls to be charged by any company and all special rates to be levied and collected by any municipal cor-

Tolls.

poration under this Act, shall be subject to the approval of the Board and no company or corporation shall charge, levy or collect any toll or special rate in excess of those approved by the Board. R.S.O. 1937, c. 261, s. 102.

Tariffs to be filed.

104. Every company shall file with the Board its tariff of tolls in such form as the Board may prescribe, and shall give such particulars as the Board by order or regulation may require, and no company shall charge any toll which has not been filed with and approved by the Board. R.S.O. 1937, c. 261, s. 103.

Prohibition against discrimination as to tolls.

105. There shall be no discrimination by any company in favour of or against any person, company or corporation furnished with telephone service by the first-mentioned company either by way of reduction or increase in any toll as approved by the Board and no company shall without the approval of the Board furnish free telephone service to any person, company or corporation. R.S.O. 1937, c. 261, s. 104.

Penalty for neglect to comply with certain provisions.

106. If a company makes default in complying with the provisions of sections 103, 104 and 105, or any of them, the company shall be liable to a penalty of \$25 for every such default, and every director, commissioner, manager, secretary or other officer of the company who wilfully authorizes or permits such default, shall be liable to the like penalty; every such penalty shall be recoverable under *The Summary Convictions Act*, or may be enforced by order of the Board. R.S.O. 1937, c. 261, s. 105.

Rev. Stat., c. 379.

Municipal agreement or by-law fixing tolls.

107. Notwithstanding the provisions of any municipal agreement or by-law, a company may, with the approval of the Board, charge higher tolls than those prescribed in the municipal agreement or by-law. R.S.O. 1937, c. 261, s. 106.

Publication of tolls.

108. The Board may, by regulation or otherwise, prescribe the manner and form in which any tariff of tolls shall be published or kept open for public inspection. R.S.O. 1937, c. 261, s. 107.

Depreciation Fund

Maintenance of depreciation fund.

109. Every telephone company shall out of earnings provide and maintain a proper and adequate depreciation fund whenever the Board, after inquiry, determines that a depreciation fund is reasonably necessary, and the Board on such inquiry shall ascertain and determine what is the proper and adequate rate of depreciation of the property of each company, and the Board may make such changes in such rate of depre-

ciation from time to time as it may find expedient. R.S.O. 1937, c. 261, s. 108.

110. The moneys carried to the credit of the depreciation fund shall, unless the Board otherwise directs, be deposited in a chartered bank at interest and may, with the approval of the Board, be expended in new constructions or extensions or additions to the property of the company, or with the like approval may be invested in interest-bearing securities, and all interest accruing from any portion of the depreciation fund so deposited or invested, and such portion of the earnings fixed by the Board as attributable to the moneys so expended in new constructions, extensions or additions, shall from time to time be carried to the credit of the depreciation fund. R.S.O. 1937, c. 261, s. 109.

Deposit and application of fund.

Issues of Stock, Bonds, Etc.

111. A company shall not issue stock, bonds, notes or other evidence of indebtedness payable at periods of more than 12 months after the date thereof, until it has obtained from the Board an order authorizing such issue and the amount thereof, and stating the purposes to which the issue or proceeds thereof are to be applied, and that in the opinion of the Board, the money, property or labour to be procured or paid for by the issue of such stock, bonds, notes or other evidence of indebtedness, is or has been reasonably required for the purposes specified in the order, and in case default is made by any company in complying with the requirements of this section every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be liable to a penalty of not more than \$50 for every such default, and such penalty shall be recoverable under *The Summary Convictions Act*, or may be enforced by order of the Board. R.S.O. 1937, c. 261, s. 110.

Approval by Board of issue of stock, bonds, notes, etc.

Rev. Stat., c. 379.

Offences and Penalties

112.—(1) No person upon whose premises a telephone instrument, wiring or other equipment is installed shall use or interfere with or permit the telephone instrument, wiring or other equipment to be used or interfered with so as to injure or damage the same or so as to prevent the convenient use of the circuit to which the telephone instrument is connected for the transmission of telephone conversations or messages.

Prohibition against interference with instruments by individuals.

(2) Every person who contravenes this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$25 for each offence. R.S.O. 1937, c. 261, s. 111.

Penalty.

Employees
divulging
conversations.

113. Every operator or other person in the employ of a telephone company who divulges the purport or substance of any telephone conversation or message passing over the system or lines of the company, except when lawfully authorized or directed so to do, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25, or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1937, c. 261, s. 112.

Persons
other than
employees
divulging
conversations.

114. Every person who, having acquired knowledge of any conversation or message passing over any telephone system or line not addressed to or intended for such person, divulges the purport or substance of such conversation or message except when lawfully authorized or directed so to do, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25, or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1937, c. 261, s. 113.

Using obscene
language over
telephone
system.

115. Every person who, when using a telephone instrument or conversing over a telephone system or line, whether the telephone instrument, system or line is owned by a company within the jurisdiction of the Legislature or not, uses indecent, obscene, blasphemous or grossly insulting language shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25, and in default of payment shall be imprisoned for a term of not more than thirty days. R.S.O. 1937, c. 261, s. 114.

Receiving and Transmitting Weather Bulletins

Companies
to receive
and communicate
daily
weather
bulletin to
subscribers.

116.—(1) It shall be the duty of every telephone company, its operators and agents, to whose central exchange the daily weather forecast bulletin issued by the Meteorological Bureau is delivered or transmitted, to receive the bulletin and forthwith transcribe it legibly in writing or type on a form to be prescribed by the Board, and to file the same in the exchange, and to communicate, free of charge, the contents of the bulletin to any subscriber of the company requesting the same.

Transmission
of
bulletin to
connecting
company.

(2) The Board may by order or regulation direct any telephone company to whose central exchange the daily weather forecast bulletin is delivered or transmitted as aforesaid, to transmit the contents of the bulletin to any connecting company whose operators and agents shall thereupon in like manner as in subsection 1 receive, transcribe and file the same, and communicate its contents free of charge to any subscriber of the last-mentioned company requesting the same. R.S.O. 1937, c. 261, s. 115.

Returns to the Board

117. Every company shall, on or before the 31st day of January in each year, or at such other time as the Board may specify, furnish to the Board in such form as it shall prescribe such statements, reports and returns respecting the cost, receipts, expenditures, operation, management and equipment of such system as the Board may require. R.S.O. 1937, c. 261, s. 116. Furnishing returns, etc.

118. If default is made in complying with the requirements of section 117, every director, commissioner, manager, secretary or other officer of the company who is knowingly a party to the default, shall be liable to a penalty of not more than \$50 for every day during which the default continues, and such penalty shall be recoverable under *The Summary Convictions Act*, or may be enforced by order of the Board. R.S.O. 1937, c. 261, s. 117. Penalty for default in making returns. Rev. Stat., c. 379.

PART VI

POWERS OF THE BOARD

119. The Board shall superintend the carrying out of this Act and, for that purpose, shall have and may exercise all necessary powers and authority over and in respect of any person, company, municipal corporation or board of commissioners. R.S.O. 1937, c. 261, s. 118. Supervisory jurisdiction of the Board.

120. The Board shall have exclusive jurisdiction to hear and determine any differences which may arise between two or more municipal corporations in respect of the establishment, extension, operation and maintenance of a telephone system or in respect of any act, matter or thing required to be done by them or any of them under this Act, and the determination of the Board upon the same shall be final and binding upon all parties. R.S.O. 1937, c. 261, s. 119. Board's exclusive jurisdiction to determine disputes between municipalities.

121. The Board, upon request and on such terms as seem expedient, may assist by advice any company, municipal corporation, the commissioners for any system and resident assessed landowners as to the establishment, extension, maintenance and operation of any system or works authorized by this Act and the proceedings incidental thereto. R.S.O. 1937, c. 261, s. 120. Board may advise companies, etc.

122. The Board may from time to time inquire whether any system established by a municipal corporation under this Act is being operated in such a way that the rates or tolls charged for the service furnished by the system are sufficient Inquiry by Board as to whether rates sufficient to meet debt charges, etc.

to pay the debenture debt and interest created and accruing in respect thereof together with the cost of maintenance, or whether greater rates are charged than are sufficient for such purposes, and the Board shall have authority to order such revision or readjustment of the rates or tolls as it may deem expedient or necessary for the purposes herein defined. R.S.O. 1937, c. 261, s. 121.

Examination
of and report
upon tele-
phone
system.

123.—(1) The Board, whenever it appears to be expedient or necessary for the purpose of carrying into effect any of the provisions of this Act, may direct any person to examine and report upon the construction, operation or management of any telephone system, or upon any application, complaint or dispute before the Board or upon any matter or thing over which the Board has jurisdiction and for that purpose such person shall have authority at all reasonable hours to enter any building, office or other premises belonging to or connected with any such system and to examine and check all books, accounts, tariffs, rates, balance sheets and other papers, records and documents relating to the system and to examine the switchboards, instruments, toll stations and all other property of whatsoever nature which belongs to or forms a part of the system.

Powers of
examiner.
Rev. Stat.,
c. 262.

(2) The person appointed to make such inquiry and report shall have and may exercise all the powers set out in section 55 of *The Ontario Municipal Board Act*.

Adoption of
report by
Board.

(3) Upon receiving the report of the person appointed to make inquiry and report, the Board may adopt the report in whole or in part and may thereupon make an order upon and in respect of the subject matter of the report. R.S.O. 1937, c. 261, s. 122.

General
powers of
Board, prac-
tice and
procedure.

Rev. Stat.,
c. 262.

124. The provisions of *The Ontario Municipal Board Act*, with respect to the jurisdiction and powers of the Board, and as to practice and procedure, shall apply *mutatis mutandis* to the exercise of the jurisdiction conferred on the Board by this Act, and the decision of the Board on any question of fact shall be final. R.S.O. 1937, c. 261, s. 123.

Power of
Board to
hear com-
plaints.

125. The Board shall have jurisdiction to inquire into, hear and determine any application by or on behalf of any interested person,

Rev. Stat.,
c. 331.

(a) complaining that any company has failed to do any act, matter or thing required to be done by the company under *The Railways Act*, this Act, any general or special Act, or by any regulation or order made thereunder by the Lieutenant-Governor in

Council, the Board, or any other authority, or that any company has done or is doing anything contrary to or in violation of such Acts, or any of them, or any such regulation or order;

- (b) complaining that any company is charging tolls in excess of those approved by the Board;
- (c) requesting the Board to make any order, or give any direction, sanction or approval which by law it is authorized to make or give. R.S.O. 1937, c. 261, s. 124.

126. The Board of its own motion may order any person, company or municipality to do forthwith or within any specified time, and in any manner prescribed by the Board, anything which such person, company or municipality is or may be required to do under the said Acts or regulations, or any of them, and may forbid the doing or continuing of anything which is contrary to the same or any of them. R.S.O. 1937, c. 261, s. 125.

Powers of Board exercisable on its own motion.

127. The Board may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under and in carrying out the provisions of this Act, and every by-law, notice or other proceeding, which is in substantial conformity with the form so approved, shall not be open to objection on the ground that it is not in accordance with the provisions of this Act applicable thereto, but the use of the forms shall not be obligatory. R.S.O. 1937, c. 261, s. 126.

Board may approve of forms, etc.

128. The Board may prescribe the forms of accounts, books of accounts and records to be kept by companies subject to this Act. R.S.O. 1937, c. 261, s. 127.

Forms of accounts may be prescribed.

129. The Board may make regulations for the enforcement and carrying into effect of this Act, and may prescribe penalties where not otherwise provided for the breach of any of the provisions of this Act or of the regulations, but no penalty shall, in respect of any breach, exceed \$100, nor shall the imposition of any such penalty affect any other obligation or liability of a company. R.S.O. 1937, c. 261, s. 128.

Board may make regulations.

130. Notwithstanding anything in any Act, when any company has failed to do any act, matter or thing required by *The Companies Act*, the Board may inquire into the causes and extent of such failure, and if, in the opinion of the Board, such failure has been due to inadvertence, error or mistake, the Board may order the company to do such acts,

Breaches of The Companies Act cured.
Rev. Stat., c. 59.

matters or things, as the Board may consider to be expedient or necessary in the premises, and, upon the company complying with the order, the Board may recommend to the Lieutenant-Governor in Council that supplementary letters patent, Order in Council, or certificate embodying such provisions as may be deemed expedient or necessary be issued to the company, and thereupon the Lieutenant-Governor in Council may issue such supplementary letters patent, Order in Council or certificate. R.S.O. 1937, c. 261, s. 129.

Validation
of acts of
the company.

Rev. Stat.,
c. 59.

131. After such supplementary letters patent, Order in Council or certificate have or has been issued, the company shall be deemed to have performed *nunc pro tunc* such act, matter or thing required to be done by *The Companies Act* as fully and effectively as if such failure had not occurred, and all agreements, contracts and obligations made or entered into by or with the company shall be legal, valid and binding to the same extent as they would have been if such inadvertence, error or mistake had not been made. R.S.O. 1937, c. 261, s. 130.

CHAPTER 388

The Territorial Division Act

1. The territorial division of Ontario into counties and districts shall continue as hereinafter set forth, and subject to sections 4 and 5, for municipal and judicial purposes such counties, and for judicial purposes such districts shall respectively be composed as follows:

Existing
organization
continued.

1.—THE COUNTY OF BRANT

Brant.

shall consist of,

- (a) the City of Brantford;
- (b) the Town of Paris;
- (c) the townships of,
 - Brantford, Onondaga,
 - Burford, South Dumfries,
 - Oakland, Tuscarora,

except that the Township of Tuscarora shall continue to be withdrawn from and shall not form part of the County of Brant for municipal purposes.

2.—THE COUNTY OF BRUCE

Bruce.

shall consist of,

- (a) the towns of Chesley, Kincardine, Port Elgin, Southampton, Walkerton, Wiarton;
- (b) the villages of Hepworth, Lion's Head, Lucknow, Mildmay, Paisley, Ripley, Tara, Teeswater, Tiverton;
- (c) the townships of,
 - Albemarle, Culross,
 - Amabel, Eastnor,
 - Arran, Elderslie,
 - Brant, Greenock,
 - Bruce, Huron,
 - Carrick, Kincardine,

Kinloss,
Lindsay,

St. Edmunds,
Saugeen.

The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

The Indian Reserve at Chiefs' Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel.

Carleton.

3.—THE COUNTY OF CARLETON

shall consist of,

- (a) the City of Ottawa;
- (b) the Town of Eastview;
- (c) the villages of Richmond, Rockcliffe Park;
- (d) the townships of,

Fitzroy,
Gloucester,
Goulbourn,
Huntley,
March,

Marlborough,
Nepean,
North Gower,
Osgoode,
Torbolton.

Dufferin.

4.—THE COUNTY OF DUFFERIN

shall consist of,

- (a) the Town of Orangeville;
- (b) the villages of Grand Valley, Shelburne;
- (c) the townships of,

Amaranth,
East Garafraxa,
East Luther,

Melancthon,
Mono,
Mulmur.

Dundas.

5.—THE COUNTY OF DUNDAS

shall consist of,

- (a) the villages of Chesterville, Iroquois, Morrisburg, Winchester;
- (b) the townships of,

Matilda,
Mountain,

Williamsburgh,
Winchester.

6.—THE COUNTY OF DURHAM

Durham.

shall consist of,

- (a) the towns of Bowmanville, Port Hope;
- (b) the villages of Millbrook, Newcastle;
- (c) the townships of,
 - Cartwright, Darlington,
 - Cavan, Hope,
 - Clarke, Manvers.

7.—THE COUNTY OF ELGIN

Elgin.

shall consist of,

- (a) the City of St. Thomas;
- (b) the Town of Aylmer;
- (c) the villages of Dutton, Port Burwell, Port Stanley, Rodney, Springfield, Vienna, West Lorne;
- (d) the townships of,
 - Aldborough, South Dorchester,
 - Bayham, Southwold,
 - Dunwich, Yarmouth.
 - Malahide,

8.—THE COUNTY OF ESSEX

Essex.

shall consist of,

- (a) the City of Windsor;
- (b) the towns of Amherstburg, Essex, Harrow, Kingsville, La Salle, Leamington, Ojibway, Tecumseh;
- (c) the separated Town of Riverside;
- (d) the villages of Belle River, St. Clair Beach;
- (e) the townships of,
 - Anderdon, Pelee,
 - Colchester North, Rochester,
 - Colchester South, Sandwich East,
 - Gosfield North, Sandwich South,
 - Gosfield South, Sandwich West,
 - Maidstone, Tilbury North,
 - Malden, Tilbury West,
 - Mersea,

except that the Township of Pelee shall continue to be separate, for municipal purposes, from the County of Essex.

Certain
islands
included in
Township of
Pelee.

Middle Sister Island, North Harbour Island, East Sister Island, Hen Island, Big Chicken Island, Little Chicken Island and Middle Island shall form part of the Township of Pelee.

Frontenac.

9.—THE COUNTY OF FRONTENAC

shall consist of,

- (a) the City of Kingston;
- (b) the Village of Portsmouth;
- (c) the townships of,

| | |
|-----------------------|-------------------------|
| Barrie, | Palmerston and North |
| Bedford, | and South Canonto, |
| Clarendon and Miller, | Pittsburgh, |
| Hinchinbrooke, | Portland, |
| Howe Island, | Storrington, |
| Kennebec, | Wolfe Island (including |
| Kingston, | Garden Island, |
| Loughborough, | Simcoe Island, Horse |
| Olden, | Shoe Island and Mud |
| Oso, | Island). |

Glengarry.

10.—THE COUNTY OF GLENGARRY

shall consist of,

- (a) the Town of Alexandria;
- (b) the villages of Lancaster, Maxville;
- (c) the townships of,

| | |
|------------------|------------|
| Charlottenburgh, | Lancaster, |
| Kenyon, | Lochiel. |

Grenville

11.—THE COUNTY OF GRENVILLE

shall consist of,

- (a) the separated Town of Prescott;
- (b) the villages of Cardinal, Kemptville, Merrickville;
- (c) the townships of,

| | |
|---------------------|--------------|
| Augusta, | South Gower, |
| Edwardsburgh, | Wolford. |
| Oxford (on Rideau), | |

12.—THE COUNTY OF GREY

Grey.

shall consist of,

- (a) the City of Owen Sound;
- (b) the towns of Durham, Hanover, Meaford, Thornbury;
- (c) the villages of Chatsworth, Dundalk, Flesherton, Markdale, Neustadt, Shallow Lake;
- (d) the townships of,
 - Artemesia, Keppel,
 - Bentinck, Normanby,
 - Collingwood, Osprey,
 - Derby, Proton,
 - Egremont, Saint Vincent,
 - Euphrasia, Sarawak,
 - Glenelg, Sullivan,
 - Holland, Sydenham.

13.—THE COUNTY OF HALDIMAND

Haldimand.

shall consist of,

- (a) the Town of Dunnville;
- (b) the villages of Caledonia, Cayuga, Hagersville, Jarvis;
- (c) the townships of,
 - Canborough, Rainham,
 - Dunn, Seneca,
 - Moulton, Sherbrooke,
 - North Cayuga, South Cayuga,
 - Oneida, Walpole.

14.—THE COUNTY OF HALTON

Halton.

shall consist of,

- (a) the towns of Acton, Burlington, Georgetown, Milton, Oakville;
- (b) the townships of,
 - Esquesing, Nelson,
 - Nassagaweya, Trafalgar.

Hastings.

15.—THE COUNTY OF HASTINGS

shall consist of,

- (a) the City of Belleville;
- (b) the Town of Deseronto;
- (c) the separated Town of Trenton;
- (d) the villages of Bancroft, Deloro, Frankford, Madoc, Marmora, Stirling, Tweed;
- (e) the townships of,

| | |
|---------------------|-------------------------|
| Bangor, Wicklow and | Madoc, |
| McClure, | Marmora and Lake, |
| Carlow, | Mayo, |
| Dungannon, | Monteagle and Herschel, |
| Elzevir and Grims- | Rawdon, |
| thorpe, | Sidney, |
| Faraday, | Thurlow, |
| Hungerford, | Tudor and Cashel, |
| Huntingdon, | Tyendinaga, |
| Limerick, | Wollaston. |

Huron.

16.—THE COUNTY OF HURON

shall consist of,

- (a) the towns of Clinton, Goderich, Seaforth, Wingham;
- (b) the villages of Blyth, Brussels, Exeter, Hensall;
- (c) the townships of,

| | |
|----------------|----------------|
| Ashfield, | McKillop, |
| Colborne, | Morris, |
| East Wawanosh, | Stanley, |
| Goderich, | Stephen, |
| Grey, | Tuckersmith, |
| Hay, | Turnberry, |
| Howick, | Usborne, |
| Hullett, | West Wawanosh. |

Kent.

17.—THE COUNTY OF KENT

shall consist of,

- (a) the City of Chatham;
- (b) the towns of Blenheim, Bothwell, Dresden, Ridgetown, Tilbury, Wallaceburg;

- (c) the villages of Erieau, Erie Beach, Highgate, Thamesville, Wheatley;
- (d) the townships of,

| | |
|----------|---------------|
| Camden, | Orford, |
| Chatham, | Raleigh, |
| Dover, | Romney, |
| Harwich, | Tilbury East, |
| Howard, | Zone. |

18.—THE COUNTY OF LAMBTON

Lambton.

shall consist of,

- (a) the City of Sarnia;
- (b) the towns of Forest, Petrolia;
- (c) the villages of Alvinston, Arkona, Courtright, Oil Springs, Point Edward, Thedford, Watford, Wyoming;
- (d) the townships of,

| | |
|--------------|-------------------------|
| Bosanquet, | Sarnia, |
| Brooke, | Sombra, including Wal- |
| Dawn, | pole Island, St. Anne's |
| Enniskillen, | Island and the other |
| Euphemia, | islands at the mouth |
| Moore, | of the St. Clair River, |
| Plympton, | Warwick. |

19.—THE COUNTY OF LANARK

Lanark.

shall consist of,

- (a) the towns of Almonte, Carleton Place, Perth;
- (b) the separated Town of Smith's Falls;
- (c) the Village of Lanark;
- (d) the townships of,

| | |
|---------------------|-------------------|
| Bathurst, | Lavant, |
| Beckwith, | Montague, |
| Dalhousie and North | North Burgess, |
| Sherbrooke, | North Elmsley, |
| Darling, | Pakenham, |
| Drummond, | Ramsay, |
| Lanark, | South Sherbrooke. |

Leeds.

20.—THE COUNTY OF LEEDS

shall consist of,

- (a) the separated towns of Brockville, Gananoque;
- (b) the villages of Athens, Newboro', Westport;
- (c) the townships of,

| | |
|---|---|
| Bastard and South
Burgess,
Elizabethtown,
Front of Escott,
Front of Leeds and
Lansdowne,
Front of Yonge,
Kitley, | North Crosby,
Rear of Leeds and Lans-
downe,
Rear of Yonge and
Escott,
South Crosby,
South Elmsley. |
|---|---|

Lennox and
Addington.

21.—THE COUNTY OF LENNOX AND ADDINGTON

shall consist of,

- (a) the Town of Napanee;
- (b) the villages of Bath, Newburgh;
- (c) the townships of,

| | |
|---|--|
| Adolphustown,
Amherst Island,
Camden,
Denbigh, Abinger and
Ashby,
Ernestown, | Kaladar, Anglesea and
Effingham,
North Fredericksburgh,
Richmond,
Sheffield,
South Fredericksburgh. |
|---|--|

Lincoln.

22.—THE COUNTY OF LINCOLN

shall consist of,

- (a) the City of St. Catharines;
- (b) the towns of Grimsby, Merritton, Niagara, Port
Dalhousie;
- (c) the Village of Beamsville;
- (d) the townships of,

| | |
|--|--|
| Caistor,
Clinton,
Gainsborough,
Grantham, | Louth,
Niagara,
North Grimsby,
South Grimsby. |
|--|--|

23.—THE COUNTY OF MIDDLESEX

Middlesex.

shall consist of,

- (a) the City of London;
- (b) the towns of Parkhill, Strathroy;
- (c) the villages of Ailsa Craig, Glencoe, Lucan, Newbury, Wardsville;
- (d) the townships of,

| | |
|----------------|-------------------|
| Adelaide, | McGillivray, |
| Biddulph, | Metcalfe, |
| Caradoc, | Mosa, |
| Delaware, | North Dorchester, |
| East Williams, | Westminster, |
| Ekfrid, | West Nissouri, |
| Lobo, | West Williams. |
| London, | |

24.—THE COUNTY OF NORFOLK

Norfolk.

shall consist of,

- (a) the Town of Simcoe;
- (b) the villages of Delhi, Port Dover, Port Rowan, Waterford;
- (c) the townships of,

| | |
|-------------------|-------------------|
| Charlotteville, | South Walsingham, |
| Houghton, | Townsend, |
| Middleton, | Windham, |
| North Walsingham, | Woodhouse. |

[NOTE: *As to municipal and school purposes in Long Point Park in the Township of South Walsingham, see The Long Point Park Act, Rev. Stat., c. 217, esp. s. 23.*]

25.—THE COUNTY OF NORTHUMBERLAND

Northumberland.

shall consist of,

- (a) the towns of Campbellford, Cobourg;
- (b) the villages of Brighton, Colborne, Hastings;
- (c) the townships of,

| | |
|-----------|------------|
| Alnwick, | Cramahe, |
| Brighton, | Haldimand, |

Hamilton,
Murray,
Percy,

Seymour,
South Monaghan.

[NOTE: *As to municipal and school purposes in Presqu'ile Park in the Township of Brighton, see The Presqu'ile Park Act, Rev. Stat., c. 286, esp. s. 23.*]

Ontario.

26.—THE COUNTY OF ONTARIO

shall consist of,

- (a) the City of Oshawa;
- (b) the towns of Uxbridge, Whitby;
- (c) the villages of Beaverton, Cannington, Port Perry;
- (d) the townships of,

Brock,
East Whitby,
Mara,
Pickering,
Rama,
Reach,

Scott,
Scugog,
Thorah (including Can-
ise or Thorah Island),
Uxbridge,
Whitby.

Oxford.

27.—THE COUNTY OF OXFORD

shall consist of,

- (a) the City of Woodstock;
- (b) the Town of Tillsonburg;
- (c) the separated Town of Ingersoll;
- (d) the villages of Embro, Norwich, Tavistock;
- (e) the townships of,

Blandford,
Blenheim,
Dereham,
East Nissouri,
East Oxford,
East Zorra,

North Norwich,
North Oxford,
South Norwich,
West Oxford,
West Zorra.

Peel.

28.—THE COUNTY OF PEEL

shall consist of,

- (a) the Town of Brampton;
- (b) the villages of Bolton, Port Credit, Streetsville;

- (c) the townships of,
 Albion, Toronto,
 Caledon, Toronto Gore.
 Chinguacousy,

29.—THE COUNTY OF PERTH

Perth.

shall consist of,

- (a) the City of Stratford;
 (b) the towns of Listowel, Mitchell;
 (c) the separated Town of St. Mary's;
 (d) the Village of Milverton;
 (e) the townships of,
 Blanshard, Hibbert,
 Downie (including the Logan,
 Gore of Downie), Mornington,
 Ellice, North Easthope,
 Elma, South Easthope,
 Fullarton, Wallace.

30.—THE COUNTY OF PETERBOROUGH

Peter-
borough.

shall consist of,

- (a) the City of Peterborough;
 (b) the villages of Havelock, Lakefield, Norwood;
 (c) the townships of,
 Asphodel, Ennismore,
 Belmont and Methuen, Galway and Cavendish,
 Burleigh and An- Harvey,
 struther, North Monaghan,
 Chandos, Otonabee,
 Douro, Smith.
 Dummer,

31.—THE COUNTY OF PRESCOTT

Prescott.

shall consist of,

- (a) the towns of Hawkesbury, Vankleek Hill;
 (b) the Village of L'Orignal;

- (c) the townships of,
 Alfred, North Plantagenet,
 Caledonia, South Plantagenet,
 East Hawkesbury, West Hawkesbury.
 Longueuil,

Prince
Edward.

32.—THE COUNTY OF PRINCE EDWARD

shall consist of,

- (a) the Town of Picton;
 (b) the villages of Bloomfield, Wellington;
 (c) the townships of,
 Ameliasburgh, North Marysburgh,
 Athol, Sophiasburgh,
 Hallowell, South Marysburgh.
 Hillier,

Renfrew.

33.—THE COUNTY OF RENFREW

shall consist of,

- (a) the towns of Arnprior, Pembroke, Renfrew;
 (b) the villages of Barry's Bay, Braeside, Cobden, Eganville, Killaloe Station;
 (c) the townships of,
 Admaston, Pembroke,
 Alice and Fraser, Petawawa,
 Bagot and Blithfield, Radcliffe,
 Bromley, Raglan,
 Brougham, Rolph, Buchanan,
 Brudenell and Lyndoch, Wylie and McKay,
 Grattan, Ross,
 Griffith and Mata- Sebastopol,
 watchan, Sherwood, Jones and
 Hagarty and Richards, Burns,
 Head, Clara and Maria, South Algona,
 Horton, Stafford,
 McNab, Westmeath,
 North Algona, Wilberforce.

Russell.

34.—THE COUNTY OF RUSSELL

shall consist of,

- (a) the Town of Rockland;
 (b) the Village of Casselman;

- (c) the townships of,
Cambridge, Cumberland,
Clarence, Russell.

35.—THE COUNTY OF SIMCOE

Simcoe.

shall consist of,

- (a) the towns of Alliston, Barrie, Collingwood, Midland,
Orillia, Penetanguishene, Stayner;
- (b) the villages of Beeton, Bradford, Coldwater, Creemore, Elmvale, Port McNicoll, Tottenham, Victoria Harbour, Wasaga Beach;
- (c) the townships of,
Adjala, Oro,
Essa, Sunnidale,
Flos, Tay,
Innisfil, Tecumseth,
Matchedash, Tiny,
Medonte, Tosorontio,
Nottawasaga, Vespra,
Orillia, West Gwillimbury.

36.—THE COUNTY OF STORMONT

Stormont.

shall consist of,

- (a) the City of Cornwall;
- (b) the Village of Finch;
- (c) the townships of,
Cornwall, Osnabruck,
Finch, Roxborough.

37.—THE COUNTY OF VICTORIA

Victoria.

shall consist of,

- (a) the Town of Lindsay;
- (b) the villages of Bobcaygeon, Fenelon Falls, Omemee, Sturgeon Point, Woodville;
- (c) the townships of,
Bexley, Eldon,
Carden, Emily,
Dalton, Fenelon,

| | |
|-------------------|-------------|
| Laxton, Digby and | Ops, |
| Longford, | Somerville, |
| Mariposa, | Verulam. |

Waterloo.

38.—THE COUNTY OF WATERLOO

shall consist of,

- (a) the cities of Galt, Kitchener, Waterloo;
- (b) the towns of Elmira, Hespeler, Preston;
- (c) the villages of Ayr, New Hamburg;
- (d) the townships of,

| | |
|-----------------|-----------|
| North Dumfries, | Wilmot, |
| Waterloo, | Woolwich. |
| Wellesley, | |

Welland.

39.—THE COUNTY OF WELLAND

shall consist of,

- (a) the cities of Niagara Falls, Welland;
- (b) the towns of Fort Erie, Port Colborne, Thorold;
- (c) the villages of Chippawa, Crystal Beach, Fonthill, Humberstone;
- (d) the townships of,

| | |
|--------------|-------------|
| Bertie, | Stamford, |
| Crowland, | Thorold, |
| Humberstone, | Wainfleet, |
| Pelham, | Willoughby. |

Wellington.

40.—THE COUNTY OF WELLINGTON

shall consist of,

- (a) the City of Guelph;
- (b) the towns of Harriston, Mount Forest, Palmerston;
- (c) the villages of Arthur, Clifford, Drayton, Elora, Erin, Fergus;
- (d) the townships of,

| | |
|----------|--------------|
| Arthur, | Guelph, |
| Eramosa, | Maryborough, |
| Erin, | Minto, |

Nichol,
Peel,
Pilkington,

Puslinch,
West Garafraxa,
West Luther.

41.—THE COUNTY OF WENTWORTH

Wentworth.

shall consist of,

- (a) the City of Hamilton;
- (b) the Town of Dundas;
- (c) the villages of Stoney Creek, Waterdown;
- (d) the townships of,

| | |
|-----------|-------------------|
| Ancaster, | East Flamborough, |
| Barton, | Glanford, |
| Beverly, | Saltfleet, |
| Binbrook, | West Flamborough. |

[NOTE: *For special provisions as to municipal, school and judicial purposes in Burlington Beach in the Township of Saltfleet, see The Burlington Beach Act, Rev. Stat., c. 43, esp. s. 4.*]

42.—THE COUNTY OF YORK

York.

shall consist of,

- (a) the City of Toronto;
- (b) the towns of Aurora, Leaside, Mimico, Newmarket, New Toronto, Weston;
- (c) the villages of Forest Hill, Long Branch, Markham, Richmond Hill, Stouffville, Sutton, Swansea, Woodbridge;
- (d) the townships of,

| | |
|-------------------|--------------------|
| East Gwillimbury, | North Gwillimbury, |
| East York, | North York, |
| Etobicoke, | Scarborough, |
| Georgina, | Vaughan, |
| King, | Whitchurch, |
| Markham, | York. |

43.—THE PROVISIONAL COUNTY OF HALIBURTON

Haliburton.

shall consist of the townships of,

| | |
|------------------------------|---|
| Anson, Hindon and
Minden, | Dysart, Bruton, Clyde,
Dudley, Eyre, Guil-
ford, Harburn, Har-
court and Havelock, |
| Cardiff, | |

Glamorgan,

Lutterworth,

Monmouth,

Sherborne, McClintock,
Livingstone, Lawrence
and Nightingale,
Snowdon,
Stanhope.

[NOTE: *As to judicial purposes see The Haliburton Act, Rev. Stat., c. 164.*]

Algoma.

44.—THE TERRITORIAL DISTRICT OF ALGOMA

shall consist of,

- (a) the City of Sault Ste. Marie;
- (b) the towns of Blind River, Bruce Mines, Nesterville, Thessalon;
- (c) the Village of Hilton Beach;
- (d) the geographic townships of,

| | | |
|--------------------|---------------------|------------|
| A, | Champlain, | E, |
| Abbott, | Chelsea, | Ebbs, |
| Aberdeen, | Chesley, | Elgie, |
| Aberdeen | Chesley Additional, | Ericson, |
| Additional, | Cholette, | Ermine, |
| Abigo, | Clouston, | Esten, |
| Acton, | Cobden, | F, |
| Alderson, | Coderre, | Farquhar, |
| Allenby, | Common, | Fenwick, |
| Amik, | Concobar, | Fisher, |
| Amundsen, | Conking, | Flanders, |
| Anderson, | Cooper, | Foch, |
| Archibald, | Cromlech, | Frances, |
| Arnott, | Cross, | Franz, |
| Awenge, | Cudney, | Frost, |
| Aweres, | Curtis, | G, |
| B, | D, | Galbraith, |
| Bayfield, | Davin, | Gaudette, |
| Beaton, | Day, | Gillmor, |
| Bourinot, | Deagle, | Gladstone, |
| Breckenridge, | Dennis, | Glasgow, |
| Bridgland, | Deroche, | Gould, |
| Bright, | Derry, | Gourlay, |
| Bright Additional, | Doherty, | Grasett, |
| Buchan, | Doucett, | H, |
| Byng, | Downer, | Haig, |
| C, | Dowsley, | Hambleton, |
| Carney, | Drew, | Haughton, |
| Challener, | Duncan, | Havilland, |

| | | |
|--------------|--------------|---------------------|
| Hawkins, | McEwing, | Shanly, |
| Hayward, | McFarlan, | Shedden, |
| Herrick, | McGiverin, | Shields, |
| Hiawatha, | McMahon, | Simpson, |
| Hilton, | Meath, | Spragge, |
| Hodgins, | Mercer, | Stefansson, |
| Home, | Meredith, | Strickland, |
| Hook, | Mildred, | Striker, |
| Hunt, | Minnipuka, | T, |
| I, | Mons, | Talbott, |
| Irving, | Montgomery, | Tarbutt, |
| J, | Moorehouse, | Tarbutt Additional, |
| Jarvis, | Morin, | Tarentorus, |
| Jocelyn, | Mosambik, | Tedder, |
| Johns, | N, | Templeton, |
| Johnson, | Nagagami, | Tennyson, |
| K, | Nameigos, | Thessalon, |
| Kapuskasing, | Nebotik, | Thompson, |
| Kars, | Newlands, | Tilley, |
| Kehoe, | O, | Tilston, |
| Kildare, | Odlum, | Tupper, |
| Kincaid, | Opazatika, | U, |
| Kirkwall, | Oscar, | Usnac, |
| Kirkwood, | Otter, | V, |
| Korah, | P, | VanKoughnet, |
| L, | Palmer, | Victoria, |
| Laird, | Parke, | W, |
| Larkin, | Parkinson, | Walls, |
| Lascelles, | Patton, | Wells, |
| Lefroy, | Pearkes, | Welsh, |
| Legge, | Pelletier, | Whitman, |
| Lerwick, | Pennefather, | Wicksteed, |
| Lessard, | Plummer, | Winget, |
| Lewis, | Plummer | Woolrich, |
| Ley, | Additional, | X, |
| Lipton, | Prince, | Y, |
| Lizar, | Proctor, | Z, |
| Long, | Puskuta, | Tp. 1A |
| Lougheed, | Q, | Tp. 1B, |
| M, | R, | Tp. 1C, |
| Macdonald, | Radisson, | Tp. 1D, |
| Mack, | Roche, | Tp. 1E, |
| Magone, | Rose, | Tp. 1F, |
| Makawa, | Ryan, | Tp. 2A, |
| Marjorie, | S, | Tp. 2B, |
| Marne, | St. Joseph, | Tp. 2C, |
| Martin, | St. Julien, | Tp. 2D, |
| Matthews, | Scarfe, | Tp. 2E, |
| Maude, | Scholfield, | Tp. 2F, |

| | | |
|---------|-------------------|-------------------|
| Tp. 3A, | Tp. 53, | Tp. 23, Range 11, |
| Tp. 3B, | Tp. 54, | Tp. 23, Range 12, |
| Tp. 3C, | Tp. 55, | Tp. 23, Range 13, |
| Tp. 3D, | Tp. 56, | Tp. 23, Range 14, |
| Tp. 3E, | Tp. 61, | Tp. 24, Range 11, |
| Tp. 3F, | Tp. 62, | Tp. 24, Range 12, |
| Tp. 3G, | Tp. 63, | Tp. 24, Range 13, |
| Tp. 3H, | Tp. 64, | Tp. 24, Range 14, |
| Tp. 4A, | Tp. 65, | Tp. 24, Range 15, |
| Tp. 4B, | Tp. 66, | Tp. 24, Range 16, |
| Tp. 4C, | Tp. 123, | Tp. 24, Range 17, |
| Tp. 4D, | Tp. 124, | Tp. 24, Range 18, |
| Tp. 4E, | Tp. 125, | Tp. 24, Range 19, |
| Tp. 4F, | Tp. 129, | Tp. 24, Range 20, |
| Tp. 4G, | Tp. 130, | Tp. 24, Range 21, |
| Tp. 4H, | Tp. 131, | Tp. 24, Range 22, |
| Tp. 5A, | Tp. 132, | Tp. 24, Range 23, |
| Tp. 5B, | Tp. 137, | Tp. 24, Range 24, |
| Tp. 5C, | Tp. 138, | Tp. 25, Range 12, |
| Tp. 5D, | Tp. 139, | Tp. 25, Range 13, |
| Tp. 5E, | Tp. 143, | Tp. 25, Range 14, |
| Tp. 5F, | Tp. 144, | Tp. 25, Range 15, |
| Tp. 5G, | Tp. 145, | Tp. 25, Range 16, |
| Tp. 5H, | Tp. 149, | Tp. 25, Range 17, |
| Tp. 6A, | Tp. 150, | Tp. 25, Range 18, |
| Tp. 6B, | Tp. 151, | Tp. 25, Range 19, |
| Tp. 6C, | Tp. 155, | Tp. 25, Range 20, |
| Tp. 6D, | Tp. 156, | Tp. 25, Range 21, |
| Tp. 6E, | Tp. 157, | Tp. 25, Range 22, |
| Tp. 6F, | Tp. 161, | Tp. 25, Range 23, |
| Tp. 6G, | Tp. 162, | Tp. 25, Range 24, |
| Tp. 6H, | Tp. 163, | Tp. 25, Range 25, |
| Tp. 7A, | Tp. 167, | Tp. 25, Range 26, |
| Tp. 7B, | Tp. 168, | Tp. 26, Range 12, |
| Tp. 7C, | Tp. 169, | Tp. 26, Range 13, |
| Tp. 7D, | Tp. 175, | Tp. 26, Range 14, |
| Tp. 7E, | Tp. 176, | Tp. 26, Range 15, |
| Tp. 7F, | Tp. 182, | Tp. 26, Range 16, |
| Tp. 7G, | Tp. 188, | Tp. 26, Range 17, |
| Tp. 7H, | Tp. 195, | Tp. 26, Range 18, |
| Tp. 7Z, | Tp. 196, | Tp. 26, Range 19, |
| Tp. 43, | Tp. 201, | Tp. 26, Range 20, |
| Tp. 45, | Tp. 202, | Tp. 26, Range 21, |
| Tp. 46, | Tp. 22, Range 10, | Tp. 26, Range 22, |
| Tp. 47, | Tp. 22, Range 11, | Tp. 26, Range 23, |
| Tp. 48, | Tp. 22, Range 12, | Tp. 26, Range 24, |
| Tp. 49, | Tp. 22, Range 13, | Tp. 26, Range 25, |
| Tp. 51, | Tp. 22, Range 14, | Tp. 26, Range 26, |
| Tp. 52, | Tp. 23, Range 10, | Tp. 27, Range 12, |

| | | |
|-------------------|-------------------|-------------------|
| Tp. 27, Range 13, | Tp. 28, Range 25, | Tp. 30, Range 25, |
| Tp. 27, Range 14, | Tp. 28, Range 26, | Tp. 30, Range 26, |
| Tp. 27, Range 16, | Tp. 28, Range 27, | Tp. 30, Range 27, |
| Tp. 27, Range 17, | Tp. 29, Range 14, | Tp. 31, Range 18, |
| Tp. 27, Range 18, | Tp. 29, Range 15, | Tp. 31, Range 19, |
| Tp. 27, Range 19, | Tp. 29, Range 16, | Tp. 31, Range 20, |
| Tp. 27, Range 20, | Tp. 29, Range 17, | Tp. 31, Range 21, |
| Tp. 27, Range 21, | Tp. 29, Range 18, | Tp. 31, Range 22, |
| Tp. 27, Range 22, | Tp. 29, Range 19, | Tp. 31, Range 23, |
| Tp. 27, Range 23, | Tp. 29, Range 20, | Tp. 31, Range 24, |
| Tp. 27, Range 24, | Tp. 29, Range 21, | Tp. 31, Range 25, |
| Tp. 27, Range 25, | Tp. 29, Range 22, | Tp. 31, Range 26, |
| Tp. 27, Range 26, | Tp. 29, Range 23, | Tp. 31, Range 27, |
| Tp. 28, Range 13, | Tp. 29, Range 24, | Tp. 32, Range 23, |
| Tp. 28, Range 14, | Tp. 29, Range 25, | Tp. 32, Range 24, |
| Tp. 28, Range 15, | Tp. 29, Range 26, | Tp. 32, Range 25, |
| Tp. 28, Range 16, | Tp. 29, Range 27, | Tp. 32, Range 26, |
| Tp. 28, Range 17, | Tp. 30, Range 17, | Tp. 32, Range 27, |
| Tp. 28, Range 18, | Tp. 30, Range 18, | Tp. 32, Range 28, |
| Tp. 28, Range 19, | Tp. 30, Range 19, | Tp. 33, Range 23, |
| Tp. 28, Range 20, | Tp. 30, Range 20, | Tp. 33, Range 24, |
| Tp. 28, Range 21, | Tp. 30, Range 21, | Tp. 33, Range 25, |
| Tp. 28, Range 22, | Tp. 30, Range 22, | Tp. 33, Range 26, |
| Tp. 28, Range 23, | Tp. 30, Range 23, | Tp. 33, Range 27, |
| Tp. 28, Range 24, | Tp. 30, Range 24, | Tp. 33, Range 28, |

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Clavet; thence south astronomically to the southwest corner of the Township of Johns; thence east along the south boundary of the Township of Johns to the northwest corner of the Township of Common; thence south along the west boundaries of the Townships of Common and Hunt to the southwest corner of the last-mentioned Township; thence west along the south boundary of the Township of Knowles to O.L.S. Speight's meridian of 1902; thence south along O.L.S. Speight's meridian of 1902 and its southerly production to the International Boundary; thence southeasterly and easterly following the International Boundary through Lake Superior, the St. Mary River and the expansions thereof and the North Channel of Lake Huron to an angle of the International Boundary in the North Channel of Lake Huron between Cockburn Island and Drummond Island; thence easterly in a straight line through the North Channel of Lake Huron to a point distant one and one-half miles south astronomically from the southwest extremity of Kenny Point of Innes Island; thence north 55° east astronomically five miles; thence east astronomically three miles; thence south 36° east astronomically five

and one-half miles; thence north-easterly in a straight line to a point in the water's edge of the North Channel of Lake Huron at the intersection of the production southerly of the west boundary of the Township of Harrow; thence north and northeasterly along the west boundary of the Township of Harrow to the southeast corner of the Township of Salter; thence westerly, southerly and westerly along the south boundary of the Township of Salter to the southeast corner of the Township of Victoria; thence north along the east boundary of the said Township to the northeast corner thereof; thence east along the south boundary of the Township of Tennyson to the southeast corner of the said Township; thence north astronomically to the northeast corner of Township 125; thence east along the south boundary of Township A to the southeast corner thereof; thence north astronomically to the northeast corner of Township D; thence west astronomically to the northwest corner of Township T; thence north astronomically to the northeast corner of Township 7Z; thence west astronomically to the northeast corner of Township 23, Range 14; thence north astronomically to the northeast corner of Township 24, Range 22; thence west astronomically to the southwest corner of Township 24, Range 23; thence north astronomically to the northeast corner of the Township of Meath; thence east astronomically to the southeast corner of the Township of Loughheed; thence north astronomically to the northeast corner of the Township of Shanly; thence west astronomically to the southeast corner of the Township of Scholfield; thence north along the east boundaries of the Townships of Scholfield and Ebbs to the northeast corner of the last-mentioned Township; thence west astronomically to the northeast corner of the Township of Dowsley; thence north along the east boundaries of the Townships of McEwing and Arnott to the northeast corner of the last-mentioned Township; thence west astronomically to the southwest corner of the Township of Clavet, the point of commencement.

Provisional
Judicial
District of
Algoma.

The Territorial District of Algoma shall form the Provisional Judicial District of Algoma.

Boundary
line between
municipali-
ties of
Johnson,
etc., and
Plummer
defined.

The westerly boundary of the Huron Copper Bay and Mining Company's location is and has always been since the 25th day of April, 1890, the true and correct boundary line between the municipalities of Johnson, Tarbutt and Tarbutt Additional and the municipality of Plummer Additional.

Cochrane.

45.—THE TERRITORIAL DISTRICT OF COCHRANE shall consist of,

- (a) the towns of Cochrane, Hearst, Iroquois Falls, Kapuskasing, Matheson, Smooth Rock Falls, Timmins;

(b) the geographic townships of,

| | | |
|--------------|-------------|--------------|
| Abbotsford, | Calder, | Enid, |
| Acres, | Calvert, | Evelyn, |
| Adair, | Canfield, | Fauquier, |
| Adanac, | Cargill, | Fenton, |
| Agassiz, | Carman, | Fergus, |
| Agate, | Carmichael, | Findlay, |
| Aitken, | Carnegie, | Fintry, |
| Alexandra, | Caron, | Fleck, |
| Amery, | Carr, | Ford, |
| Ardagh, | Carroll, | Fortune, |
| Aubin, | Carscallen, | Fournier, |
| Auden, | Carss, | Fox, |
| Aurora, | Case, | Frecheville, |
| Avon, | Casgrain, | Freele, |
| Bannerman, | Casselman, | Fryatt, |
| Barker, | Challies, | Fushimi, |
| Barlow, | Chipman, | Gaby, |
| Barnet, | Clavet, | Galna, |
| Beardmore, | Clay, | Ganong, |
| Beatty, | Clergue, | Garden, |
| Beck, | Clive, | Gardiner, |
| Belford, | Clute, | Garrison, |
| Beniah, | Cockshutt, | Geary, |
| Berry, | Cody, | Gentles, |
| Bessborough, | Colquhoun, | German, |
| Bicknell, | Cook, | Gill, |
| Birdsall, | Côté, | Glackmeyer, |
| Blakelock, | Coulson, | Godfrey, |
| Blount, | Crawford, | Goldwin, |
| Bond, | Cumming, | Goodwin, |
| Bonis, | Currie, | Gowan, |
| Bourassa, | Dargavel, | Greer, |
| Bowman, | Deloro, | Griffin, |
| Bowyer, | Dempsay, | Guibord, |
| Boyce, | De Pencier, | Guilfoyle, |
| Boyle, | Devitt, | Gurney, |
| Bradburn, | Dokis, | Habel, |
| Bradette, | Duff, | Haggart, |
| Bradley, | Dundonald, | Haight, |
| Bragg, | Dunsmore, | Hambly, |
| Brain, | Dyer, | Hamlet, |
| Bristol, | Ebbitt, | Haney, |
| Brower, | Ecclestone, | Hanlan, |
| Burrell, | Edwards, | Hanna, |
| Burritt, | Egan, | Harewood, |
| Burstall, | Eilber, | Harker, |
| Byers, | Elliott, | Harmon, |
| Caithness, | Emerson, | Heath, |

| | | |
|--------------|-------------|-------------|
| Hecla, | Little, | Mulvey, |
| Heighington, | Loveland, | Munro, |
| Henderson, | Lowther, | Murphy, |
| Henley, | Lucas, | Nansen, |
| Hepburn, | Mabee, | Nassau, |
| Hicks, | Macdiarmid, | Neely, |
| Hillmer, | Machin, | Nesbitt, |
| Hislop, | Macklem, | Nettleton, |
| Hoblitzell, | Macvicar, | Newman, |
| Hobson, | Magladery, | Newmarket, |
| Hogg, | Mahaffy, | Nixon, |
| Holloway, | Maher, | Noseworthy, |
| Homuth, | Mahoney, | Nova, |
| Hopkins, | Mann, | O'Brien, |
| Horden, | Marathon, | Ogden, |
| Howells, | Marceau, | Oke, |
| Hoyle, | Marriott, | Ophir, |
| Hurdman, | Marven, | Orkney, |
| Hurtubise, | Massey, | Ossin, |
| Idington, | Matheson, | Ottaway, |
| Inglis, | Maund, | Owens, |
| Ireland, | McAlpine, | Parliament, |
| Irish, | McBrien, | Parnell, |
| Jamieson, | McCann, | Parr, |
| Jessop, | McCart, | Pearce, |
| Kendall, | McCausland, | Pickett, |
| Kendrey, | McCoig, | Pinard, |
| Kennedy, | McCool, | Pitt, |
| Kenning, | McCowan, | Playfair, |
| Kerrs, | McCrea, | Pliny, |
| Kidd, | McCuaig, | Potter, |
| Kilmer, | McKnight, | Poulett, |
| Kineras, | McLeister, | Prosser, |
| Kingsmill, | McMillan, | Purvis, |
| Kipling, | McQuibban, | Pyne, |
| Kirkland, | Menapia, | Rand, |
| Knox, | Mewhinney, | Rapley, |
| Kohler, | Michaud, | Raven, |
| Laidlaw, | Milligan, | Raynar, |
| Lamarche, | Moberly, | Reaume, |
| Lambert, | Montcalm, | Reid, |
| Lamplugh, | Moody, | Rickard, |
| Landry, | Moose, | Ritchie, |
| Langemarck, | Morrow, | Robb, |
| Laughton, | Mortimer, | Roebuck, |
| Leitch, | Mountjoy, | Rogers, |
| Lennox, | Mowbray, | Rowlandson, |
| Lewers, | Mulholland, | Rykert, |
| Lisgar, | Mulloy, | St. John, |

| | | |
|--------------|------------|-------------|
| St. Laurent, | Stimson, | Tomlinson, |
| Sanborn, | Stock, | Torrance, |
| Sanderson, | Stoddart, | Traill, |
| Sangster, | Storey, | Tucker, |
| Sankey, | Stoughton, | Tully, |
| Sargeant, | Strachan, | Turnbull, |
| Scapa, | Stringer, | Tweed, |
| Scovil, | Studholme, | Valentine, |
| Seaton, | Sulman, | Verdun, |
| Seguin, | Sutcliffe, | Wacousta, |
| Selwyn, | Swanson, | Wadsworth, |
| Shackleton, | Swartman, | Walker, |
| Shannon, | Sweatman, | Warden, |
| Shaw, | Sweet, | Wark, |
| Shearer, | Sydere, | Watson, |
| Sheldon, | Syer, | Way, |
| Sheraton, | Tannahill, | Webster, |
| Sherring, | Taylor, | Weichel, |
| Shetland, | Teefy, | Wesley, |
| Shuel, | Teetzel, | Whitesides, |
| Singer, | Thackeray, | Whitney, |
| Slack, | Thomas, | Wilhelmina, |
| Stapells, | Thorburn, | Wilkie, |
| Staples, | Thorning, | Williamson, |
| Staunton, | Tisdale, | Winnington, |
| Steele, | Tolmie, | Wright, |

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Clavet; thence north along the west boundaries of the Townships of Clavet and Boyce to the northwest corner of the last-mentioned Township; thence west along the south boundaries of the Townships of Henderson, Selwyn, Barlow, Goodwin, Chipman and Raynar to the southwest corner of the last-mentioned Township; thence north along the meridian run by O.L.S. Speight and van Nostrand in 1925 and its northerly production to the centre of the main channel of the Albany River; thence easterly, northerly and north-easterly along the centre of the main channel of the Albany River and the expansions thereof to the shore of James Bay; thence south-easterly, southerly, easterly and northeasterly along the shore of James Bay to its intersection with the Interprovincial Boundary between Ontario and Quebec; thence southerly along the said Interprovincial Boundary to the southeast corner of the Township of Dokis; thence west astronomically to the southwest corner of the Township of Whitesides; thence north along the west boundary of the Township of Whitesides

to the northwest corner thereof; thence west astronomically to the southwest corner of the Township of Ossin; thence north astronomically to the northwest corner of the Township of Staples; thence west astronomically to the southwest corner of the Township of Caithness; thence north along the west boundaries of the Townships of Caithness and Orkney to the northwest corner of the Township of Orkney; thence west astronomically to the southwest corner of the Township of Langemarck; thence north astronomically along the west boundary of the Townships of Langemarck and Storey to the northwest corner of the last-mentioned Township; thence west astronomically to the southwest corner of the Township of Clavet, the point of commencement.

Provisional
Judicial
District of
Cochrane.

The Territorial District of Cochrane shall form the Provisional Judicial District of Cochrane.

Kenora.

46.—THE TERRITORIAL DISTRICT OF KENORA

shall consist of,

(a) the towns of Dryden, Keewatin, Kenora, Sioux Lookout;

(b) the geographic townships of,

| | | |
|--------------|------------|-------------|
| Aubrey, | Drayton, | Langton, |
| Avery, | Drope, | Laval, |
| Barrett, | Echo, | le May, |
| Benedickson, | Eton, | Lomond, |
| Big Island, | Ewart, | MacFie, |
| Boys, | Factor, | MacNicol, |
| Bradshaw, | Forgie, | MacQuarrie, |
| Breithaupt, | Furniss, | Mafeking, |
| Bridges, | Gidley, | Malachi, |
| Britton, | Glass, | Manross, |
| Broderick, | Godson, | McAree, |
| Brownridge, | Gour, | McGeorge, |
| Buller, | Grummett, | McIlraith, |
| Burk, | Gundy, | McMeekin, |
| Cathcart, | Hartman, | McNevin, |
| Chartrand, | Haycock, | Melgund, |
| Code, | Hodgson, | Melick, |
| Colenso, | Hyndman, | Mutrie, |
| Corman, | Ignace, | Noyon, |
| Coyle, | Ilisley, | Osaquan, |
| Daniel, | Jackman, | Pelican, |
| Desmond, | Jaffray, | Pellatt, |
| Devonshire, | Jordan, | Pettypiece, |
| Dewan, | Kirkup, | Phillips, |
| Docker, | Ladysmith, | Pickerel, |

| | | |
|-----------|-------------|-------------|
| Redditt, | Slaght, | Vermilion |
| Redvers, | Smellie, | Additional, |
| Revell, | Southworth, | Wabigoon, |
| Rice, | Stokes, | Wainwright, |
| Rowell, | Temple, | Wauchope, |
| Rudd, | Tustin, | Webb, |
| Rugby, | Tweedsmuir, | Willingdon, |
| Sanford, | Umbach, | Work, |
| Satterly, | Van Horne, | Zealand, |
| Skey, | Vermilion, | |

together with all the remaining territory included within the following limits:

Commencing at the 48th mile post on O.L.S. Niven's meridian line of 1890 in latitude $49^{\circ} 0' 6''$ north; thence due west 89 miles, 71 chains, 7 links more or less to the 18th mile post on O.L.S. Alexander Niven's 6th meridian line; thence due north along the said meridian line 6 miles to the 24th mile post thereon; thence due west along O.L.S. Gillon's base line of 1919 to the southeast angle of the Township of Godson and continuing west along the south boundary of the Township of Godson to the east shore of Sabaskong Bay of Lake of the Woods; thence westerly and southwesterly along the south shore of the said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th degree parallel of north latitude; thence due west 15 miles more or less to the International Boundary between Canada and the United States of America; thence northerly and westerly along the International Boundary to the Interprovincial Boundary between Ontario and Manitoba; thence due north along the last-mentioned boundary to the middle of the main channel of the Winnipeg River; thence easterly upstream along the middle of the main channel of the Winnipeg and English Rivers and the lake expansions and along the middle of Lac Seul and Root River to the portage on the height of land; thence along the middle of the said portage to the waters flowing into Lake St. Joseph; thence along the middle of the main channel of Lake St. Joseph to O.L.S. Dobie's meridian line run in 1919; thence due south along the said last-mentioned meridian line and along O.L.S. Niven's meridian line run in 1890 to the point of commencement; and

- (c) the Patricia Portion which shall consist of the geographic townships of,

| | | |
|---------|-----------|-----------|
| Agnew, | Bateman, | Byshe, |
| Baird, | Belanger, | Connell, |
| Ball, | Birkett, | Corless, |
| Balmer, | Bowerman, | Costello, |

| | | |
|----------|-------------|-----------|
| Dent, | Honeywell, | Mulcahy, |
| Dome, | Killala, | Ponsford, |
| Earngey, | Knott, | Ranger, |
| Fairlie, | McCullagh, | Shaver, |
| Goodall, | McDonough, | Skinner, |
| Graves, | McNaughton, | Todd, |
| Heyson, | Mitchell, | Willans, |

together with all the remaining territory included within the following limits:

Commencing at the most northerly point of the westerly boundary of Ontario as determined by *The Canada (Ontario) Boundary Act, 1889*, Chapter 28 of the Statutes of 1889 of the United Kingdom (the said westerly boundary being the easterly boundary of Manitoba); thence continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of Dominion Land Surveys; thence northeasterly in a right line to the most eastern point of Island Lake, as fixed on the ground in the year 1930 by the erection of concrete monument number 295 of the Ontario-Manitoba Boundary survey and situated in about north latitude $53^{\circ} 44' 19''.42$ and in about west longitude $93^{\circ} 39' 14''.91$; thence northeasterly in a right line to a point twenty-one and four-tenths feet due west astronomic from the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay, as the latter point was fixed by the Geodetic Survey of Canada in the year 1929; thence easterly and southerly following the shore of the said Bay to the point where the northerly boundary of Ontario as established under the said Act intersects the shore of James Bay; thence westward along the said boundary as established by the said Act to the place of commencement. (See 1912, c. 3 and 1950, c. 48.)

[NOTE: *As to provision for the administration of justice, registration of instruments, etc., in Patricia, see The Patricia Act, R.S.O. 1937, c. 5.*]

Provisional
Judicial
District of
Kenora.

The Territorial District of Kenora shall form the Provisional Judicial District of Kenora.

Manitoulin.

47.—THE TERRITORIAL DISTRICT OF MANITOULIN

shall consist of,

(a) the towns of Gore Bay, Little Current;

(b) the geographic townships of,

| | | |
|------------|----------------|-----------|
| Allan, | Barrie Island, | Billings, |
| Assignack, | Bidwell, | Burpee, |

| | | |
|------------------|------------|--------------|
| Campbell, | Gordon, | Robinson, |
| Carlyle, | Howland, | Rutherford, |
| Carnarvon, | Humboldt, | Sandfield, |
| Cockburn Island, | Killarney, | Sheguiandah, |
| Dawson, | Mills, | Tehkummah; |

(c) the islands named,

| | | |
|--------------|----------------|--------------|
| Badgeley, | Great Cloche, | Sampson, |
| Bedford, | Green, | Squaw, |
| Burnt, | Heywood, | Strawberry, |
| Centre, | Hog, | Vankoughnet, |
| Clapperton, | Iroquois, | Vidal, |
| Club, | Little Cloche, | Wall, |
| Crescent, | Lonely, | Wardrope, |
| Duck, | Lucas, | Wells, |
| East Rous, | McGregor, | West Rous, |
| Fitzwilliam, | Philip Edward, | Yeo, |
| George, | Rabbit, | |

together with all the remaining territory included within the following limits:

Commencing at the southeast corner of the Township of Humboldt; thence south astronomically forty miles; thence west astronomically to the International Boundary; thence northwesterly and northeasterly along the International Boundary to an angle therein in the North Channel of Lake Huron between Cockburn Island and Drummond Island; thence easterly in a straight line through the North Channel of Lake Huron to a point distant one and one-half miles south astronomically from the southwest extremity of Kenny Point of Innes Island; thence north 55° east astronomically, five miles; thence east astronomically three miles; thence south 36° east astronomically five and one-half miles; thence northeasterly in a straight line to a point in the water's edge of the North Channel of Lake Huron at the intersection of the production southerly of the west boundary of the Township of Harrow; thence easterly and southerly following the water's edge of the said channel to the north boundary of the west part of the unsundered portion of the Whitefish River Indian Reserve No. 4; thence east along the said boundary and its production to the water's edge of the North Channel of Lake Huron; thence northerly, easterly and southerly following the said water's edge to the north boundary of the Township of Killarney; thence east along the north boundaries of the Townships of Killarney and Carlyle to the northeast corner of the last-mentioned Township; thence south along the east boundary of the Township of Carlyle to the northwest corner of the Township of Humboldt; thence east along the north boundary of the said Township to the northeast

corner thereof; thence south along the east boundary of the Township of Humboldt to the southeast corner thereof, the point of commencement.

Provisional
Judicial
District of
Manitoulin.

The Territorial District of Manitoulin shall form the Provisional Judicial District of Manitoulin.

Muskoka.

48.—THE TERRITORIAL DISTRICT OF MUSKOKA

shall consist of,

- (a) the towns of Bala, Bracebridge, Gravenhurst, Huntsville;
- (b) the villages of Port Carling, Port Sydney, Windermere;
- (c) the geographic townships of,

Baxter,
Brunel,
Cardwell,
Chaffey,
Draper,
Franklin,
Freeman,
Gibson,

Macaulay,
McLean,
Medora,
Monck,
Morrison,
Muskoka,
Oakley,

Ridout,
Ryde,
Sinclair,
Stephenson,
Stisted,
Watt,
Wood,

together with the islands in the Georgian Bay lying west of the said territory and adjacent thereto, and the islands in the Severn River lying northerly of the middle of the main channel of the Severn River and adjacent to the Townships of Baxter, Wood and Morrison.

Provisional
Judicial
District of
Muskoka.

The Territorial District of Muskoka shall form the Provisional Judicial District of Muskoka.

Nipissing.

49.—THE TERRITORIAL DISTRICT OF NIPISSING

shall consist of,

- (a) the City of North Bay;
- (b) the towns of Bonfield, Cache Bay, Mattawa, Sturgeon Falls;
- (c) the geographic townships of,

Airy,
Anglin,
Angus,
Antoine,
Askin,

Aston,
Badgerow,
Ballantyne,
Banting,
Barron,

Bastedo,
Beaucage,
Belfast,
Bertram,
Best,

| | | |
|--------------|--------------|--------------|
| Biggar, | FitzGerald, | Milne, |
| Bishop, | Flett, | Mulock, |
| Blyth, | French, | Murchison, |
| Bonfield, | Freswick, | Niven, |
| Boulter, | Garrow, | Notman, |
| Bower, | Gibbons, | Olive, |
| Boyd, | Gladman, | Olrig, |
| Briggs, | Gooderham, | Osborne, |
| Bronson, | Grant, | Osler, |
| Burnaby, | Guthrie, | Papineau, |
| Butler, | Hammell, | Pardo, |
| Butt, | Hartle, | Parkman, |
| Caldwell, | Hebert, | Paxton, |
| Calvin, | Hobbs, | Peck, |
| Cameron, | Hugel, | Pedley, |
| Canisbay, | Hunter, | Pentland, |
| Canton, | Joan, | Phelps, |
| Cassels, | Jocko, | Phyllis, |
| Chambers, | Kenny, | Postras, |
| Charlton, | Kirkpatrick, | Preston, |
| Chisholm, | La Salle, | Riddell, |
| Clancy, | Latchford, | Sabine, |
| Clarkson, | Lauder, | Scholes, |
| Clement, | Law, | Sisk, |
| Commanda, | Le Roche, | Springer, |
| Crerar, | Lister, | Sproule, |
| Cynthia, | Lockhart, | Stewart, |
| Dana, | Loudon, | Strathcona, |
| Deacon, | Lyell, | Strathy, |
| Devine, | Lyman, | Stratton, |
| Dickens, | Macpherson, | Thistle, |
| Dickson, | Master, | Torrington, |
| East Ferris, | Mattawan, | Vogt, |
| Eddy, | McAuslan, | West Ferris, |
| Edgar, | McCallum, | White, |
| Eldridge, | McCraney, | Widdifield, |
| Falconer, | McLaren, | Wilkes, |
| Fell, | McLaughlin, | Wyse, |
| Field, | McWilliams, | Yates, |
| Finlayson, | Merrick, | |

together with all the remaining territory included within the following limits:

Commencing at the southeast angle of the Township of Falconer; thence west along the south boundary of the said Township to the southwest corner thereof; thence north astronomically to the northwest corner of the Township of Macpherson; thence east along the north boundary of the Township of Macpherson to the southwest corner of the

Township of Kirkpatrick; thence north astronomically to the northwest corner of the Township of Belfast; thence east along the north boundary of the Township of Belfast to the southwest corner of the Township of Le Roche; thence north along the west boundaries of the Townships of Le Roche and Canton to the northwest angle of the last-mentioned Township; thence east astronomically to the northeast corner of the Township of Best; thence south along the east boundaries of the Townships of Best and Cassels to the southeast corner of the last-mentioned Township; thence east along the north boundaries of the Townships of Eldridge and Hebert and its production easterly to the Interprovincial Boundary in Lake Timiskaming between Ontario and Quebec; thence along the said boundary southerly and southeasterly to the north-east angle of the Township of Cameron; thence southerly, westerly and southeasterly along the easterly boundaries of the Townships of Cameron and Deacon to the northwest angle of the Township of FitzGerald; thence easterly along the northerly boundary of the Township of FitzGerald to the northeast angle thereof; thence southerly along the easterly boundary of the Township of FitzGerald to the northwest angle of the Township of Edgar; thence easterly along the northerly boundary of the Township of Edgar to the northeast angle thereof; thence southerly along the easterly boundary of the Township of Edgar to the northwest angle of the Township of Bronson; thence easterly along the northerly boundary of the Township of Bronson to the northeast angle thereof; thence southerly along the easterly boundaries of the Townships of Bronson, Stratton and Master to the southeast angle of the last-mentioned Township; thence westerly along the southerly boundaries of the Townships of Master and Guthrie to the northeast angle of the Township of Dickens; thence southerly along the easterly boundary of the Township of Dickens to the southeast angle thereof; thence westerly along the southerly boundary of the Township of Dickens to the northeast angle of the Township of Lyell; thence southerly along the easterly boundary of the Township of Lyell to the southeast angle thereof; thence westerly along the southerly boundaries of the Townships of Lyell and Sabine to the southwest angle of the last-mentioned Township; thence northerly along the westerly boundaries of the Townships of Sabine and Airy to the northwest angle of the last-mentioned Township; thence westerly along the southerly boundaries of the Townships of Sproule, Canisbay, Peck and Finlayson to the southwest angle of the last-mentioned Township; thence northerly along the westerly boundary of the Township of Finlayson to the northwest angle thereof; thence easterly along the northerly boundary of the Township of Finlayson to the southwest angle of the Township of McCraney; thence northerly along the

westerly boundaries of the Townships of McCraney, Butt, Paxton and Ballantyne to the northwest angle of the last-mentioned Township; thence easterly along the northerly boundary of the Township of Ballantyne to the southwest angle of the Township of Chisholm; thence northerly along the westerly boundaries of the Townships of Chisholm and East Ferris to the southerly boundary of the Township of West Ferris; thence westerly along the southerly boundary of the Township of West Ferris to the water's edge of Lake Nipissing; thence westerly across Lake Nipissing in a straight line to a point in the middle of the main channel of the French River south of and off the easterly end of Blueberry Island; thence southwesterly along the centre lines of the main channel of the French River and that channel of the French River to the north of Okikendawt Island to the production easterly of the south boundary of the Township of Latchford; thence west along the said production and continuing west along the south boundary of the Township of Latchford to the southeast angle of the Township of Falconer, the point of commencement.

The Territorial District of Nipissing shall form the Provisional Judicial District of Nipissing.

Provisional
Judicial
District of
Nipissing.

50.—THE TERRITORIAL DISTRICT OF PARRY SOUND

Parry Sound.

shall consist of,

- (a) the towns of Kearney, Parry Sound, Powassan, Trout Creek;
- (b) the villages of Burk's Falls, Magnetawan, Rosseau, South River, Sundridge;
- (c) the geographic townships of,

| | | |
|-----------|------------|------------------|
| Armour, | Hagerman, | Monteith, |
| Bethune, | Hardy, | Mowat, |
| Blair, | Harrison, | Nipissing, |
| Brown, | Henvey, | North Himsworth, |
| Burpee, | Humphry, | Patterson, |
| Burton, | Joly, | Perry, |
| Carling, | Laurier, | Pringle, |
| Chapman, | Lount, | Proudfoot, |
| Christie, | Machar, | Ryerson, |
| Conger, | McConkey, | Shawanaga, |
| Cowper, | McDougall, | South Himsworth, |
| Croft, | McKellar, | Spence, |
| Ferguson, | McKenzie, | Strong, |
| Ferrie, | McMurrich, | Wallbridge, |
| Foley, | Mills, | Wilson, |
| Gurd, | | |

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Conger; thence easterly along the southerly boundaries of the Townships of Conger and Humphry to the southeast corner of the Township of Humphry; thence northerly along the easterly boundary of the Township of Humphry to the northeast corner of the said Township; thence easterly along the southerly boundaries of the Townships of Monteith, McMurrich, Perry and Bethune to the southeast corner of the last-mentioned Township; thence northerly along the easterly boundaries of the Townships of Bethune, Proudfoot, Joly and Laurier to the northeast angle of the last-mentioned Township; thence easterly along the southerly boundary of the Township of South Himsworth to the southeast angle thereof; thence northerly along the easterly boundaries of the Townships of North Himsworth and South Himsworth to the northeast angle of the last-mentioned Township; thence westerly along the northerly boundary of the Township of North Himsworth to the water's edge of Lake Nipissing; thence westerly across Lake Nipissing in a straight line to a point in the centre of the main channel of the French River south of and off the easterly end of Blueberry Island; thence southwesterly along the centre lines of the main channel of the French River and that channel of the French River to the north of Okikendawt Island and along that channel of the French River that lies adjacent to the south boundaries of the Townships of Scollard, Mason, Bigwood, Allen and Struthers to the southerly production of the east boundary of the Township of Travers; thence north along said production to the water's edge of the said channel; thence southwesterly, westerly and southwesterly following the water's edge of the said channel and the water's edge of Georgian Bay of Lake Huron to the west boundary of the Township of Travers; thence easterly and southerly along the northerly and easterly shores of Georgian Bay to the southwest angle of the Township of Conger, the point of commencement, and including all islands lying opposite to the said northerly and easterly shores of Georgian Bay.

Provisional
Judicial
District of
Parry Sound.

The Territorial District of Parry Sound shall form the Provisional Judicial District of Parry Sound.

Rainy River.

51.—THE TERRITORIAL DISTRICT OF RAINY RIVER

shall consist of,

- (a) the towns of Fort Frances, Rainy River;
- (b) the geographic townships of,

| | | |
|-------------|--------------------|----------------|
| Asmussen, | Freeborn, | Pratt, |
| Atwood, | Griesinger, | Ramsay Wright, |
| Aylsworth, | Halkirk, | Richardson, |
| Baker, | Hutchinson, | Roddick, |
| Barwick, | Kingsford, | Roseberry, |
| Bennett, | Lash, | Rowe, |
| Blue, | Mather, | Schwenger, |
| Burriss, | Mathieu, | Senn, |
| Carpenter, | McCaul, | Shenston, |
| Claxton, | McCrosson, | Sifton, |
| Croome, | McIrvine, | Spohn, |
| Crozier, | McLarty, | Sutherland, |
| Curran, | Menary, | Tait, |
| Dance, | Miscampbell, | Tanner, |
| Devlin, | Morley, | Tovell, |
| Dewart, | Morley Additional, | Trottier, |
| Dilke, | Morson, | Watten, |
| Dobie, | Nelles, | Weaver, |
| Farrington, | Pattullo, | Woodyatt, |
| Fleming, | Potts, | Worthington, |

together with all the remaining territory included within the following limits:

Commencing where the westerly boundary of the District of Thunder Bay intersects the International Boundary between Canada and the United States of America in Saganaga Lake; thence due north along the said district boundary to the 48th mile post thereon in latitude $49^{\circ} 0' 6''$ north; thence due west 89 miles, 71 chains, 7 links, more or less to the 18th mile post on O.L.S. Alexander Niven's 6th meridian line; thence due north along the said meridian line 6 miles to the 24th mile post thereon; thence due west along O.L.S. Gillon's base line of 1919 to the northeast angle of the Township of McLarty and continuing west along the north boundaries of the Townships of McLarty and Claxton and the westerly production thereof to the east shore of Sabaskong Bay of the Lake of the Woods; thence westerly and southwesterly along the south shore of the said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th degree parallel of north latitude; thence due west 15 miles more or less to the International Boundary; thence southerly along the International Boundary to the mouth of the Rainy River; thence southeasterly and easterly up the Rainy River along the International Boundary to Rainy Lake; thence easterly, southerly and southeasterly following the International Boundary through Rainy Lake and the several lakes, rivers and portages along the International Boundary, to the place of beginning.

Provisional
Judicial
District of
Rainy River.

The Territorial District of Rainy River shall form the
Provisional Judicial District of Rainy River.

Sudbury.

52.—THE TERRITORIAL DISTRICT OF SUDBURY

shall consist of,

- (a) the City of Sudbury;
- (b) the towns of Capreol, Chelmsford, Coniston, Copper Cliff, Frood Mine, Levack, Massey, Webbwood;

- (c) the geographic townships of,

| | | |
|------------|------------|--------------|
| Abbey, | Biggs, | Cherriman, |
| Abney, | Bigwood, | Chester, |
| Acadia, | Biscotasi, | Chewett, |
| Acheson, | Blamey, | Churchill, |
| Addison, | Blewett, | Clary, |
| Admiral, | Blezard, | Cleland, |
| Afton, | Bonar, | Clifton, |
| Alcona, | Borden, | Cochrane, |
| Alcorn, | Botha, | Collins, |
| Allen, | Bowell, | Collishaw, |
| Alton, | Brackin, | Comox, |
| Amyot, | Breadner, | Connaught, |
| Antrim, | Brebeuf, | Coppell, |
| Appleby, | Broder, | Copperfield, |
| Arbutus, | Browning, | Cortez, |
| Arden, | Brunswick, | Cosby, |
| Armagh, | Brutus, | Cosens, |
| Asquith, | Buckland, | Cotton, |
| Athlone, | Burrows, | Cox, |
| Attlee, | Burwash, | Craig, |
| Awrey, | Busby, | Creelman, |
| Aylmer, | Cabot, | Creighton, |
| Bader, | Caen, | Crockett, |
| Baldwin, | Calais, | Crothers, |
| Balfour, | Capreol, | Cunningham, |
| Baltic, | Carew, | Curtin, |
| Barclay, | Carter, | Dale, |
| Battersby, | Cartier, | D'Arcy, |
| Baynes, | Carty, | Davis, |
| Beaumont, | Cascaden, | de Gaulle, |
| Beemer, | Casimir, | Delamere, |
| Benneweis, | Cavell, | Delhi, |
| Benton, | Ceylon, | Delmage, |
| Beresford, | Chalet, | DeMorest, |
| Beulah, | Champagne, | Denison, |
| Bevin, | Chapleau, | Dennie, |
| Bigelow, | Chaplin, | Denyes, |

| | | |
|---------------|-------------|--------------|
| DesRosiers, | Garson, | Inverness, |
| Dieppe, | Garvey, | Iris, |
| Dill, | Genoa, | Ivanhoe, |
| Dore, | Gilbert, | Ivy, |
| Dowling, | Gladwin, | Jack, |
| Drury, | Goschen, | Janes, |
| Dryden, | Gough, | Jasper, |
| Dublin, | Gouin, | Jennings, |
| Dunbar, | Graham, | Joffre, |
| Dundee, | Greenlaw, | Keith, |
| Dunlop, | Grigg, | Kelly, |
| Dunnet, | Groves, | Kelso, |
| Durban, | Haddo, | Kelvin, |
| Earl, | Haentschel, | Kemp, |
| Eden, | Hagar, | Kenogaming, |
| Edinburgh, | Halcrow, | Kilpatrick, |
| Edith, | Halifax, | Kitchener |
| Eisenhower, | Hall, | Lackner, |
| Elizabeth, | Hallam, | La Fleche, |
| Ellis, | Halliday, | Lampman, |
| Emerald, | Halsey, | Lang, |
| Emo, | Hanmer, | Laura, |
| English, | Hardiman, | Leask, |
| Eric, | Harrow, | Leeson, |
| Ermatinger, | Hart, | Leinster, |
| Esther, | Harty, | Lemoine, |
| Ethel, | Hassard, | Levack, |
| Evans, | Hawley, | Lincoln, |
| Fairbairn, | Hazen, | Lipsett, |
| Fairbank, | Heenan, | Lloyd, |
| Falconbridge, | Hellyer, | Londonderry, |
| Faust, | Hendrie, | Lorne, |
| Fawcett, | Hennessy, | Loughrin, |
| Fawn, | Henry, | Louise, |
| Fingal, | Hess, | Lumsden, |
| Floranna, | Hill, | Macbeth, |
| Foleyet, | Hodgetts, | Mackelcan, |
| Foster, | Hoey, | MacIennan, |
| Foy, | Hong Kong, | Macmurchy, |
| Fraleck, | Hornell, | Mageau, |
| Frater, | Horwood, | Mallard, |
| Frechette, | Hoskin, | Manning, |
| Frey, | Howey, | Marconi, |
| Fulton, | Hubbard, | Margaret, |
| Gallagher, | Huffman, | Marion, |
| Gamey, | Hutt, | Marquette, |
| Gardhouse, | Hutton, | Marshall, |
| Garibaldi, | Hyman, | Marshay, |
| Garnet, | Invergarry, | Martland, |

| | | |
|--------------|--------------|-------------|
| Mason, | Parkin, | Snider, |
| Mattagami, | Pattinson, | Somme, |
| May, | Paudash, | Sothman, |
| McBride, | Paul, | Stalin, |
| McCarthy, | Penhorwood, | Stetham, |
| McConnell, | Peters, | Stobie, |
| McGee, | Pinogami, | Stover, |
| McKim, | Porter, | Stralak, |
| McKinnon, | Potier, | Strathearn, |
| McLeod, | Racine, | Street, |
| McNamara, | Ramsden, | Struthers, |
| McNaught, | Raney, | Stull, |
| McNish, | Rathbun, | Swayze, |
| McOwen, | Ratter, | Sweeny, |
| McPhail, | Rayside, | Telfer, |
| Melrose, | Reeves, | Tilton, |
| Merritt, | Regan, | Togo, |
| Middleboro, | Rennie, | Tooms, |
| Miramichi, | Rhodes, | Topham, |
| Missinaibi, | Roberts, | Totten, |
| Moffat, | Roblin, | Travers, |
| Moher, | Rollo, | Trill, |
| Moncrieff, | Roosevelt, | Triquet, |
| Mond, | Sadler, | Truman, |
| Mongowin, | St. Louis, | Turner, |
| Morgan, | Sale, | Tyrone, |
| Morse, | Salter, | Ulster, |
| Mountbatten, | Sandy, | Unwin, |
| Muldrew, | Scadding, | Valin, |
| Munster, | Scollard, | Vernon, |
| Murdock, | Scotia, | Vrooman, |
| Muskego, | Seagram, | Wakami, |
| Nairn, | Secord, | Waldie, |
| Natal, | Selby, | Warren, |
| Neelon, | Selkirk, | Waters, |
| Neville, | Semple, | Westbrook, |
| Newton, | Servos, | Whalen, |
| Nimitz, | Sewell, | Whigham, |
| Noble, | Shakespeare, | Wigle, |
| Norman, | Sheard, | Wisner, |
| Northrup, | Shelburne, | Yeo, |
| Nursey, | Shelley, | Zavitz, |
| Oates, | Shenango, | Tp. 6, |
| Ogilvie, | Sheppard, | Tp. 7, |
| Onaping, | Sherlock, | Tp. 8, |
| Oswald, | Silk, | Tp. 8A, |
| Osway, | Singapore, | Tp. 8B, |
| Panet, | Sladen, | Tp. 8C, |
| Parker, | Smuts, | Tp. 8D, |

| | | |
|----------|-------------------|-------------------|
| Tp. 8E, | Tp. 10H, | Tp. 22, Range 20, |
| Tp. 8F, | Tp. 11B, | Tp. 23, Range 15, |
| Tp. 8G, | Tp. 11C, | Tp. 23, Range 16, |
| Tp. 8H, | Tp. 11D, | Tp. 23, Range 17, |
| Tp. 8Z, | Tp. 11E, | Tp. 23, Range 18, |
| Tp. 9, | Tp. 11F, | Tp. 23, Range 19, |
| Tp. 9A, | Tp. 11G, | Tp. 23, Range 20, |
| Tp. 9B, | Tp. 11H, | Tp. 23, Range 23, |
| Tp. 9C, | Tp. 12, | Tp. 28, |
| Tp. 9D, | Tp. 12E, | Tp. 29, |
| Tp. 9E, | Tp. 12F, | Tp. 32, |
| Tp. 9F, | Tp. 12G, | Tp. 35, |
| Tp. 9G, | Tp. 12H, | Tp. 36, |
| Tp. 9H, | Tp. 13G, | Tp. 37, |
| Tp. 9Z, | Tp. 13H, | Tp. 44, |
| Tp. 10A, | Tp. 19, | Tp. 107, |
| Tp. 10B, | Tp. 22, | Tp. 108, |
| Tp. 10C, | Tp. 22, Range 15, | Tp. 114, |
| Tp. 10D, | Tp. 22, Range 16, | Tp. 115, |
| Tp. 10E, | Tp. 22, Range 17, | Tp. 118, |
| Tp. 10F, | Tp. 22, Range 18, | Tp. 119, |
| Tp. 10G, | Tp. 22, Range 19, | Tp. 120, |

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Harrow; thence northerly and westerly along the west boundary of the Township of Harrow to the southeast corner of the Township of Salter; thence westerly, southerly and westerly along the south boundary of the Township of Salter to the southwest corner of the said Township; thence north along the west boundary of the Township of Salter to the northwest corner thereof; thence east along the north boundary of the Township of Salter to the northeast corner of the said Township; thence north astronomically to the northwest corner of Township 120; thence east along the north boundary of the said Township to the northeast corner thereof; thence north astronomically to the northwest corner of the Township of Dennie; thence west astronomically to the southwest corner of the Township of Comox; thence north astronomically to the southwest corner of the Township of Hubbard; thence west astronomically to the southwest corner of Township 23, Range 15; thence north astronomically to the northwest corner of the Township of Cosens; thence west along the south boundary of Township 23, Range 23, to the southwest corner thereof; thence north astronomically to the northwest corner of the Township of Rennie; thence east astronomically to the northeast corner of the Township of Frey; thence south astronomically to the northwest corner of the Township of Crothers; thence east astronomically to the northeast corner

of the Township of Zavitz; thence south astronomically to the northwest corner of the Township of Stull; thence east astronomically to the northeast corner of the Township of Sladen; thence south astronomically to the southeast corner of the Township of Delhi; thence west along the south boundary of the Township of Delhi to the northeast corner of the Township of Armagh; thence south astronomically to the southeast corner of the Township of Dunnet; thence west along the south boundary of the Township of Dunnet to the northeast corner of the Township of Casimir; thence south astronomically to the southeast corner of the Township of Martland; thence east along the north boundary of the Township of Scollard and its production easterly to the centre line of the channel of the French River to the north of Okikendawt Island; thence southwesterly along the centre line of the said channel of the French River that lies adjacent to the south boundaries of the Townships of Scollard, Mason, Bigwood, Allen and Struthers to the southerly production of the east boundary of the Township of Travers; thence north along the said production to the water's edge of the said channel; thence southwesterly, westerly and southwesterly following the water's edge of the said channel and the water's edge of Georgian Bay to the west boundary of the Township of Travers; thence north along the west boundaries of the Townships of Travers and Kilpatrick to the northwest corner of the last-mentioned Township; thence west along the south boundary of the Township of Sale to the southwest corner thereof; thence north along the west boundary of the Township of Sale to the southeast corner of the Township of Goschen; thence west along the south boundaries of the Townships of Goschen, Stalin, Roosevelt and Curtin to the water's edge of the North Channel of Lake Huron; thence northerly, westerly and southerly following the said water's edge to its intersection with the production easterly of the north boundary of the west part of the unsundered portion of the Whitefish Indian Reserve No. 4; thence west along the said production and continuing west along the said north boundary to the water's edge of the North Channel of Lake Huron; thence northerly and westerly along the said water's edge to its intersection with the production southerly of the west boundary of the Township of Harrow; thence north along the said production to the southwest corner of the Township of Harrow, the point of commencement.

Provisional
Judicial
District of
Sudbury.

Thunder
Bay.

The Territorial District of Sudbury shall form the Provisional Judicial District of Sudbury.

53.—THE TERRITORIAL DISTRICT OF THUNDER BAY

shall consist of,

- (a) the cities of Fort William, Port Arthur;

(b) the Town of Geraldton;

(c) the geographic townships of,

| | | |
|------------|-------------|-------------|
| Abrey, | Fauteux, | Lapierre, |
| Adamson, | Fernow, | Laurie, |
| Adrian, | Fletcher, | Ledger, |
| Aldina, | Flood, | Leduc, |
| Alpha, | Forbes, | Legault, |
| Ames, | Fowler, | Leslie, |
| Ashmore, | Fraleigh, | Lindsley, |
| Atikameg, | Fulford, | Lismore, |
| Bain, | Furlonge, | Low, |
| Barbara, | Gibbard, | Lybster, |
| Bégin, | Gillies, | Lyon, |
| Bell, | Glen, | MacGregor, |
| Benner, | Goldie, | Manion, |
| Bertrand, | Golding, | Marks, |
| Bickle, | Goodfellow, | McComber, |
| Blackwell, | Gorham, | McCubbin, |
| Blake, | Goulet, | McGill, |
| Booth, | Graydon, | McGillis, |
| Boucher, | Gzowski, | McIntyre, |
| Bryant, | Hagey, | McIvor, |
| Bulmer, | Haines, | McKelvie, |
| Byron, | Hanniwell, | McLaurin, |
| Chevrier, | Hardwick, | McMaster, |
| Church, | Hartington, | McQuesten, |
| Cockeram, | Heathcote, | McTavish, |
| Colliver, | Hele, | Meadar, |
| Colter, | Hipel, | Meinzingar, |
| Coltham, | Hogarth, | Michener, |
| Conacher, | Homer, | Mikano, |
| Conant, | Horne, | Moss, |
| Conmee, | Houck, | Nakina, |
| Croll, | Innes, | Neebing, |
| Crooks, | Inwood, | Nipigon, |
| Daley, | Irwin, | Oakes, |
| Danford, | Jacques, | Oboshkegan, |
| Devon, | Jean, | O'Connor, |
| Dorion, | Joynt, | Oliver, |
| Dorothea, | Jutten, | O'Meara, |
| Duckworth, | Kilkenny, | Paipoonge, |
| Dye, | Kirby, | Pardee, |
| Elmhirst, | Kitto, | Parent, |
| Errington, | Klotz, | Parry, |
| Esnagami, | Knowles, | Paska, |
| Eva, | Kowkash, | Patrick, |
| Exton, | Lamport, | Pearson, |
| Fallis, | Langworthy, | Pic, |

| | | |
|------------|------------|---------|
| Pifher, | Soper, | Tp. 76, |
| Poisson, | Stedman, | Tp. 77, |
| Purdom, | Stirling, | Tp. 78, |
| Pyramid, | Strange, | Tp. 79, |
| Rickaby, | Summers, | Tp. 80, |
| Robbins, | Trewartha, | Tp. 81, |
| Robson, | Upsala, | Tp. 82, |
| Rupert, | Vincent, | Tp. 83, |
| Sackville, | Vivian, | Tp. 84, |
| Salsberg, | Walters, | Tp. 85, |
| Sandra, | Ware, | Tp. 86, |
| Savanne, | Tp. 70, | Tp. 87, |
| Savant, | Tp. 71, | Tp. 88, |
| Scoble, | Tp. 72, | Tp. 89, |
| Shabotik, | Tp. 73, | Tp. 90, |
| Sibley, | Tp. 74, | Tp. 91, |
| Smye, | Tp. 75, | Tp. 92, |

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Clavet; thence south astronomically to the southwest corner of the Township of Johns; thence east along the south boundary of the Township of Johns to the northwest corner of the Township of Common; thence south along the west boundaries of the Townships of Common and Hunt to the southwest corner of the last-mentioned Township; thence west along the south boundary of the Township of Knowles to O.L.S. Speight's meridian of 1902; thence south along O.L.S. Speight's meridian of 1902 and its southerly production to the International Boundary; thence northwesterly, southwesterly and westerly following the International Boundary to a point in Saganaga Lake where the said boundary is intersected by the southerly production of O.L.S. Niven's meridian line of 1890; thence due north along the said production and continuing along O.L.S. Niven's meridian line of 1890 and the northerly production of the said line, as surveyed by O.L.S. Dobie in 1919 to the centre of the main channel of the waters of Lake St. Joseph; thence northeasterly along the centre of the main channel of Lake St. Joseph and the Albany River, and the expansions thereof, to the intersection of the northerly production of the meridian surveyed by O.L.S. Speight and van Nostrand in 1925; thence south along the said production and continuing along the meridian run by O.L.S. Speight and van Nostrand in 1925 to the northwest corner of the Township of Bain; thence east astronomically to the northeast corner of the Township of Bell; thence south along the western boundary of the Townships of Boyce and Clavet to the south-

west corner of the Township of Clavet, the point of commencement.

The Territorial District of Thunder Bay shall form the Provisional Judicial District of Thunder Bay.

Provisional
Judicial
District of
Thunder
Bay.

54.—THE TERRITORIAL DISTRICT OF TIMISKAMING

Timis-
kaming.

shall consist of,

- (a) the towns of Charlton, Cobalt, Englehart, Haileybury, Latchford, New Liskeard;
- (b) the Village of Thornloe;
- (c) the geographic townships of,

| | | |
|--------------|----------------|--------------|
| Adams, | Charters, | Gross, |
| Alma, | Childerhose, | Harley, |
| Argyle, | Chown, | Harris, |
| Armstrong, | Cleaver, | Haultain, |
| Arnold, | Clifford, | Hearst, |
| Auld, | Cole, | Henwood, |
| Baden, | Coleman, | Hillary, |
| Banks, | Corkill, | Hilliard, |
| Bannockburn, | Corley, | Hincks, |
| Barber, | Dack, | Holmes, |
| Barr, | Dane, | Hudson, |
| Bartlett, | Davidson, | Ingram, |
| Bayly, | Denton, | James, |
| Beauchamp, | Donovan, | Katrine, |
| Ben Nevis, | Doon, | Keefer, |
| Benoit, | Douglas, | Kerns, |
| Bernhardt, | Doyle, | Kimberley, |
| Bisley, | Dufferin, | Kittson, |
| Black, | Dunmore, | Klock, |
| Blackstock, | Dymond, | Knight, |
| Blain, | Eby, | Langmuir, |
| Bompas, | Eldorado, | Lawson, |
| Boston, | Evanturel, | Lebel, |
| Brethour, | Fallon, | Leckie, |
| Brewster, | Farr, | Lee, |
| Brigstocke, | Fasken, | Leith, |
| Bryce, | Firstbrook, | Leo, |
| Bucke, | Flavelle, | Leonard, |
| Burt, | Fripp, | Lorrain, |
| Cairo, | Gamble, | Lundy, |
| Cane, | Gauthier, | Maisonville, |
| Casey, | Geikie, | Marquis, |
| Catharine, | Gillies Limit, | Marter, |
| Chamberlain, | Grenfell, | McArthur, |

| | | |
|-------------|-----------------|----------------|
| McElroy, | North Williams, | Shillington, |
| McEvay, | Ossian, | Skead, |
| McFadden, | Otto, | Smyth, |
| McGarry, | Pacaud, | South Lorrain, |
| McGiffin, | Pense, | Speight, |
| McKeown, | Pharand, | Teck, |
| McNeil, | Pontiac, | Terry, |
| McVittie, | Powell, | Thorneloe, |
| Medina, | Price, | Timmins, |
| Melba, | Rankin, | Tolstoi, |
| Michie, | Rattray, | Trethewey, |
| Mickle, | Ray, | Truax, |
| Midlothian, | Raymond, | Tudhope, |
| Milner, | Reynolds, | Tyrrell, |
| Montrose, | Roadhouse, | Van Hise, |
| Morel, | Robertson, | van Nostrand, |
| Morrisette, | Robillard, | Wallis, |
| Mulligan, | Rorke, | Whitson, |
| Musgrove, | Savard, | Willet, |
| Nicol, | Sharpe, | Willison, |
| Nordica, | Sheba, | Yarrow, |

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of South Lorrain; thence north along the west boundary of the said Township to the northwest corner thereof; thence west astronomically to the southeast corner of the Township of Brigstocke and continuing west along the south boundaries of Brigstocke, Cole and Medina to the southwest corner of the last-mentioned Township; thence north along the west boundary of the Township of Medina to the northwest corner thereof; thence west astronomically to the southwest corner of the Township of Dufferin; thence north astronomically to the southeast corner of the Township of Geikie; thence west astronomically to the southwest corner of the Township of Pharand; thence north along the west boundaries of the Townships of Pharand, Hillary and Keefer to the northwest corner of the last-mentioned Township; thence east astronomically to the Interprovincial Boundary between Ontario and Quebec; thence south and southerly along the Interprovincial Boundary to a point on the production easterly of the south boundary of the Township of South Lorrain; thence west along the said production and continuing along the south boundary of the Township of South Lorrain to the southwest corner thereof, the point of commencement.

Provisional
Judicial
District of
Timiskaming.

The Territorial District of Timiskaming shall form the Provisional Judicial District of Timiskaming. 1949, c. 104, s. 1.

2. In addition to the municipalities mentioned in section 1 as being included in the territorial districts, such districts shall also include the municipalities listed hereunder: Additional municipalities in territorial districts.

1.—THE TERRITORIAL DISTRICT OF ALGOMA Algoma.

includes the townships of,

| | | |
|----------------|---------------|------------------|
| Day and Bright | Macdonald and | Tarbutt and Tar- |
| Additional, | Meredith, | butt Additional, |
| Hilton, | Plummer | Tarentorus, |
| Jocelyn, | Additional, | Thessalon and |
| Johnson, | Prince, | Lefroy, |
| Korah, | St. Joseph, | Thompson, |
| Laird, | | Wicksteed. |

2.—THE TERRITORIAL DISTRICT OF COCHRANE Cochrane.

includes,

(a) the improvement districts of Kingham (part),
Mountjoy;

(b) the townships of,

| | | |
|-------------|----------------|--------------|
| Calvert, | Playfair, | Tisdale, |
| Fauquier, | Shackleton and | Whitney, |
| Glackmeyer, | Machin, | Black River. |

3.—THE TERRITORIAL DISTRICT OF KENORA Kenora.

includes,

(a) the Improvement District of Sioux Narrows;

(b) the townships of,

| | |
|---------------------|------------|
| Ignace, | Machin, |
| Jaffray and Melick, | Van Horne. |

4.—THE TERRITORIAL DISTRICT OF MANITOULIN Manitoulin.

includes the townships of,

| | | |
|-------------------|--------------------|----------------|
| Assiginack, | Carnarvon, | Rutherford and |
| Barrie Island, | Cockburn Island, | George Island, |
| Billings and part | Gordon and part of | Sandfield, |
| of Allan, | Allan, | Tehkummah. |
| Burpee, | Howland, | |

Muskoka.

5.—THE TERRITORIAL DISTRICT OF MUSKOKA

includes the townships of,

| | | |
|-----------|------------------|-------------|
| Brunel, | Macaulay, | Oakley, |
| Cardwell, | McLean, | Ridout, |
| Chaffey, | Medora and Wood, | Ryde, |
| Draper, | Monck, | Stephenson, |
| Franklin, | Morrison, | Stisted, |
| Freeman, | Muskoka, | Watt. |

Nipissing.

6.—THE TERRITORIAL DISTRICT OF NIPISSING

includes,

(a) the Improvement District of Cameron;

(b) the townships of,

| | | |
|-----------|--------------|--------------|
| Bonfield, | East Ferris, | Springer, |
| Caldwell, | Field, | West Ferris, |
| Calvin, | Mattawan, | Widdifield. |
| Chisholm, | Papineau, | |

Parry Sound.

7.—THE TERRITORIAL DISTRICT OF
PARRY SOUND

includes the townships of,

| | | |
|-----------|------------|------------------|
| Armour, | Humphry, | Nipissing, |
| Carling, | Joly, | North Himsworth, |
| Chapman, | Machar, | Perry, |
| Christie, | McDougall, | Ryerson, |
| Foley, | McKellar, | South Himsworth, |
| Hagerman, | McMurrich, | Strong. |

Rainy River.

8.—THE TERRITORIAL DISTRICT OF
RAINY RIVER

includes,

(a) the improvement districts of Atikokan, Kingsford;

(b) the townships of,

| | | |
|-----------|---------------|--------------|
| Alberton, | Emo, | Morley and |
| Atwood, | Lavallee, | Patullo, |
| Blue, | McCrosson and | Morson, |
| Chapple, | Tovell, | Worthington. |
| Dilke, | | |

Sudbury.

9.—THE TERRITORIAL DISTRICT OF SUDBURY

includes,

(a) the improvement District of Renabie;

(b) the townships of,

| | | |
|-------------------|----------------|-----------------|
| Baldwin, | Drury, Denison | Neelon and |
| Balfour, | and Graham, | Garson, |
| Blezard, | Hagar, | Ratter and |
| Casimir, Jennings | Hallam, | Dunnet, |
| and Appleby, | Hanmer, | Rayside, |
| Chapleau, | Martland, | Salter, May and |
| Cosby and Mason, | McKim, | Harrow, |
| Dowling, | Nairn, | Waters. |

10.—THE TERRITORIAL DISTRICT OF THUNDER BAY

Thunder
Bay.

includes,

(a) the improvement districts of Beardmore, Marathon,
Red Rock, Terrace Bay;

(b) the townships of,

| | | |
|----------|-----------|------------|
| Conmee, | Nipigon, | Paipoonge, |
| Gillies, | O'Connor, | Schreiber, |
| Neebing, | Oliver, | Shuniah. |

11.—THE TERRITORIAL DISTRICT OF TIMISKAMING

Timis-
kaming.

includes,

(a) the improvement districts of Gauthier, Kingham
(part), McGarry;

(b) the townships of,

| | | |
|--------------|------------|---------------------|
| Armstrong, | Dack, | Hudson, |
| Brethour, | Dymond, | James, |
| Bucke, | Evanturel, | Kerns, |
| Casey, | Harley, | Larder Lake, |
| Chamberlain, | Harris, | Matachewan, |
| Coleman, | Hilliard, | Teck. |
| | | 1949, c. 104, s. 2. |

3. Notwithstanding the express mention herein of certain municipalities as being included in certain counties and districts, every such county and district shall include any other municipality situate within the limits thereof. 1949, c. 104, s. 3.

Inclusion of
municipali-
ties although
not men-
tioned.

UNITED COUNTIES, ETC.

4.—(1) For municipal, judicial and all purposes not otherwise provided for by law, the following counties shall continue to form unions of counties:

United
counties.

1. Stormont, Dundas and Glengarry;
2. Leeds and Grenville;

3. Northumberland and Durham;

4. Prescott and Russell.

Courts,
offices and
institutions.

(2) Each of such unions of counties under the name of the United Counties of.....and.....
(*naming them*), shall for all purposes, so long as such counties remain united, have in common, as if one county, all courts, offices and institutions established by law, pertaining to counties. 1949, c. 104, s. 4.

Cities and
towns.

5. For judicial purposes every city shall be united to and form part of the county within the limits whereof it is situate; but for municipal purposes such cities, and all towns and other municipalities withdrawn from the jurisdiction of the county, shall not form part of the counties in which they are respectively situate. 1949, c. 104, s. 5.

BOUNDARIES OF TOWNSHIPS LYING ON CERTAIN LAKES AND RIVERS

Limits of
townships
bounded by
certain lakes
and rivers.

6.—(1) Except as provided in subsections 2 and 3 the limits of all the townships lying on the St. Lawrence River, Lake Ontario, Niagara River, Lake Erie, the Detroit River, Lake St. Clair, the St. Clair River, Lake Huron (not including the Georgian Bay), the St. Mary River and Lake Superior (not including Thunder Bay, Black Bay and Nipigon Bay), shall extend to the boundary of the Province in such lake or river, in prolongation of the outlines of each township respectively; and unless otherwise provided herein, such townships shall also include all the islands the whole or the greater part of which are comprised within the said outlines so prolonged.

Exception.

(2) Subsection 1 shall not apply to that part of Ontario at the head of Lake Ontario lying west of the east boundary of the County of York produced southerly to the International Boundary, but in that part the limits of all townships on either side of the Lake shall extend to a line drawn from the intersection of the east boundary of the County of York produced with the International Boundary, westerly to the old outlet of Hamilton Harbour.

Rev. Stat.,
c. 217.

(3) Subject to *The Long Point Park Act* the Township of South Walsingham shall include the whole of Long Point. 1949, c. 104, s. 6.

Limits of
townships
on the
Ottawa.

7. The limits of the townships lying on the Ottawa River shall in like manner extend to the boundary between Ontario and Quebec. 1949, c. 104, s. 7.

8. The limits of the townships in the County of Glengarry shall in like manner extend to the middle of Lake St. Francis, and to the middle of the main channel of the St. Lawrence River, and unless otherwise provided herein, shall also include every island the whole or the greater part of which is comprised within the outlines of such townships so prolonged. 1949, c. 104, s. 8.

Limits of townships in Glengarry.

9.—(1) The limits of the townships on the Bay of Quinte, the Georgian Bay, Thunder Bay, Black Bay and Nipigon Bay, the Trent River and its lakes, Lake Simcoe, the Severn River, the Rideau River and its lakes, the Thames River, the Grand River, and any other rivers, lakes and bays not hereinbefore mentioned, shall in like manner extend to the middle of such lakes and bays, and to the middle of the main channels of such rivers respectively, and unless otherwise provided herein, shall also include every island the whole or the greater part of which is comprised within the outlines of such township so prolonged.

Limits of townships on Bay of Quinte and on other bays, lakes and rivers.

(2) Notwithstanding subsection 1,

Exceptions.

- (a) the extended east limit of the Township of Carling and the extended west limit of the Township of McDougall in the waters of Parry Sound are defined by a line drawn south $20^{\circ} 52'$ east astronomically from the southeast corner of Lot 6, Concession 10 in the Township of Carling; and
- (b) the extended south limits of the Townships of McDougall and Carling and the extended north limit of the Township of Cowper in the waters of Parry Sound and the Georgian Bay are defined by a line drawn south $69^{\circ} 8'$ west astronomically from the southwest corner of the Township of McDougall,

and the Townships of Carling, McDougall and Cowper shall include every island the whole or the greater part of which is included within the limits of such townships as so defined.

(3) Notwithstanding subsection 1, the extended south limit of the Township of Baxter and the eastern portion of the extended north limit of the Township of Tay in the waters of the Georgian Bay from the mouth of the Severn River are defined as follows:

Idem.

Commencing at a point in the waters of the Georgian Bay distant 94 chains, measured on a course of south $20^{\circ} 52'$ east from the northeast corner of Lot 31, Concession 2, in the Township of Baxter; thence north 80° west astronomically, 109 chains more or less to a point in a line drawn south astro-

nomically from the southwestern extremity of Potato Island; thence west astronomically 210 chains more or less to a point in the waters of the Georgian Bay midway between the mainland of the Township of Tay and the Township of Baxter;

Again commencing at the said point of commencement; thence north 62° east astronomically 40 chains more or less to a point in the waters of the Georgian Bay midway between the mainland of the Township of Baxter and the Township of Tay, thence northerly and westerly following the midway line between the mainland of the Township of Baxter and the Township of Tay to the intersection with the centre of the main channel of the Severn River at the mouth of the Severn River,

and the Townships of Baxter and Tay shall include every island the whole or the greater part of which is included within the limits of such townships as so defined. 1949, c. 104, s. 9.

Savings as to islands being townships of themselves, etc.

10. Sections 6, 7, 8 and 9 shall not extend to any islands or parts of islands which are townships by themselves, or which have been expressly included in other townships in the original surveys and plans thereof remaining of record in the office of the Minister of Lands and Forests or by statute, but the same shall remain townships or parts of such other townships respectively. 1949, c. 104, s. 10.

POWERS OF LIEUTENANT-GOVERNOR IN COUNCIL

Powers of Lieutenant-Governor in Council.

11. The Lieutenant-Governor in Council may,

- (a) establish geographic townships in those parts of Ontario in which townships have not been constituted, and declare the name each shall bear and fix the boundaries thereof;
- (b) alter the boundaries of any territorial district or provisional judicial district;
- (c) when no letters patent have been issued granting lands in a township, alter the boundaries or change the name thereof;
- (d) annex any gore or tract of land not forming part of a township to any adjoining township or parts of such gore or tract of land to townships adjoining such parts;
- (e) when doubt exists as to the township in which an island or other tract of land or lands covered with water lies, declare the township in which the same lies. 1949, c. 104, s. 11.

CHAPTER 389

The Theatres and Cinematographs Act

1. Notwithstanding anything to the contrary in any other Regulations. Act the Lieutenant-Governor in Council may make regulations similar or different in different localities, or with reference to different classes of building, or having application to different classes of performances or to different conditions governing the erection, operation and safety of theatres, public halls and buildings occupied by film exchanges, including inspection and supervision, and shall have every power for such purpose which shall be necessary to carry into effect the terms of this section. R.S.O. 1937, c. 319, s. 1.

2. The Lieutenant-Governor in Council may impose a licence upon and make regulations for licensing and defining theatres and public halls and the using and operating of cinematographs, moving picture machines or other similar apparatus, for prescribing terms and conditions under which such machines shall be operated, for licensing, operating and defining film exchanges, for prohibiting or regulating films or slides to be exchanged or exhibited, for prescribing the terms and conditions under which such films may be sold, leased or exchanged, providing for payment of licence fee or fees on each film displayed in Ontario, for regulating and examining, re-examining and grading projectionists and apprentices, for prohibiting or regulating the printing, exhibition or display of pictures or advertising matter, requiring that a proportion of the films available for distribution to exhibitors, and the films exhibited in each theatre, shall be of British manufacture and origin, and fixing such proportions on a monthly or yearly basis, and fixing fees to be paid for censoring films, pictures or advertising matter. R.S.O. 1937, c. 319, s. 2; 1941, c. 55, s. 38.

3.—(1) The Lieutenant-Governor in Council may appoint a Board of Censors, to hold office during pleasure, composed of such number of persons as may be deemed necessary, who shall have power to permit or to prohibit the exhibition of any film or slide which it is proposed to use in Ontario and to permit or prohibit the exhibition of any film or slide in any theatre, and the Treasurer of Ontario may from time to time appoint temporary members of the Board of Censors.

Appeal
from
Board.

(2) There shall be an appeal from the Board of Censors to the person, body or court designated and subject to the conditions prescribed by regulation of the Lieutenant-Governor in Council.

Inspector.

(3) The Lieutenant-Governor in Council may appoint an inspector to inspect theatres, cinematographs, moving picture machines or other similar apparatus and perform such other duties as the Lieutenant-Governor in Council may require.

Secretary
and clerical
assistance.

(4) The Lieutenant-Governor in Council may appoint a secretary to the inspector and such other assistants as may be deemed necessary and every such assistant shall have authority to act in lieu of the inspector when directed by him so to do, and the inspector shall prescribe the duties of each of such assistants and shall have the superintendence of the office. R.S.O. 1937, c. 319, s. 3.

Films to be
stamped by
Board of
Censors.

4. No cinematograph, moving picture machine or other similar apparatus shall exhibit any films which have not been stamped by the Board of Censors, and no such cinematograph, moving picture machine or other similar apparatus shall be kept or exhibited for entertainment until the owner, user or exhibitor of such apparatus has complied with the regulations and obtained a licence from the Treasurer of Ontario. R.S.O. 1937, c. 319, s. 4.

Stamps to
show on
film.

5. All films passed or permitted to be exhibited by the Board of Censors shall be stamped in such manner that the stamp will show plainly upon the film. R.S.O. 1937, c. 319, s. 5.

Licence fee.

6.—(1) Every owner, lessee or manager of a theatre and the user or exhibitor of every cinematograph, moving picture machine or other similar apparatus, the owner, lessee or manager of every film exchange and the person operating such cinematograph, moving picture machine or other similar apparatus shall each pay in such manner as may be fixed by regulation to the Treasurer of Ontario an annual licence fee.

Amount.

(2) The amount of the licence fee shall be fixed by the regulations, and no municipal corporation shall charge a greater licence fee than is so fixed. R.S.O. 1937, c. 319, s. 6.

Exhibiting
in violation
of regula-
tions.

7. Any person in charge of such cinematograph, moving picture machine or other similar apparatus, or the owner, proprietor, manager or person having control thereof who uses any such machine for public entertainment without having complied with, or in contravention of the regulations, or without having a licence therefor from the Treasurer of Ontario, or who exhibits films not authorized by the Board of Censors

as required by this Act shall be guilty of an offence against this Act. R.S.O. 1937, c. 319, s. 7.

8. No municipal corporation shall issue a licence to any theatre or for any cinematograph, moving picture machine or other similar apparatus to which this Act applies until the applicant produces a licence for such theatre, cinematograph, moving picture machine or other similar apparatus from the Treasurer of Ontario, nor shall a municipal corporation refuse a licence to any holder of a provincial licence, and any member or officer of a municipal corporation who is a party to the issue or refusal of any licence in contravention of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$20. R.S.O. 1937, c. 319, ss. 8, 14 (1).

Municipal
licences not
to be issued
until
provincial
licence
granted.

9. A child under the age of 16 years unaccompanied by an adult shall not be permitted to attend any exhibition by cinematograph, moving picture machine or other similar apparatus for admission to which a fee is charged, except on Saturday of each week and on school, public and legal holidays, between the hours of 9 a.m. and 6 p.m., during which hours a matron to be remunerated by the exhibitor shall be engaged in each theatre whose duty it shall be to supervise the conduct of such children and of adults toward them while in such theatre, the appointment of such matron to be sanctioned in such manner as the Treasurer of Ontario may direct, and the Treasurer of Ontario may at any theatre in his discretion dispense with the attendance of a matron. R.S.O. 1937, c. 319, s. 9.

Children
under 16
years of age
attending
shows.

10. Every person who contravenes any of the provisions of this Act, except sections 8, 11 and 23, or any regulation shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$20 and not more than \$200, and a further penalty of \$25 for every day after conviction upon which such offence continues. R.S.O. 1937, c. 319, ss. 10, 14 (1).

Penalty.

11. If any breach of this Act or of any of the regulations causes directly or indirectly bodily injury or loss of life, the owner, lessee, manager, operator or other person through or by whom such breach occurred shall, in addition to any other penalty prescribed by law, be liable to imprisonment for a term of not more than one year. R.S.O. 1937, c. 319, s. 11.

Liability for
bodily
injury or
loss of life.

12. For the purpose of enforcing the provisions of this Act and of the regulations, the Ontario Provincial Police or the inspector or such other person appointed under this Act are hereby empowered and directed at any time to inspect any

Inspection
by Ontario
Provincial
Police.

cinematograph, moving picture machine or other similar apparatus which is used or kept on premises licensed under this Act. R.S.O. 1937, c. 319, s. 12.

Duty of
chief
constable.

13. In a city, town or village it shall also be the duty of the chief constable or chief of police to enforce the provisions of this Act and the regulations. R.S.O. 1937, c. 319, s. 13.

Application
of penalties.

14. The penalties recovered for a contravention of this Act shall be paid to the Treasurer of Ontario. R.S.O. 1937, c. 319, s. 14 (2).

Regulations
generally.

15. The Lieutenant-Governor in Council shall have power to make such regulations as may be deemed necessary, advisable or convenient for the purpose of carrying into effect the provisions of this Act. R.S.O. 1937, c. 319, s. 15.

Returns.

16. Every owner, lessee or manager of a theatre and the user or exhibitor of every moving picture machine, cinematograph or other similar apparatus shall make such returns to the Treasurer as the Lieutenant-Governor in Council may by regulation require, respecting,

- (a) the seating capacity of the theatre or other building in which exhibitions are given;
- (b) the construction of the theatre or other building and the means of exit therefrom;
- (c) the number of performances or exhibitions given during the period fixed by the regulations and the nature thereof;
- (d) the number of persons admitted to such performances or exhibitions;
- (e) the charges made for admission to such theatre or other building or to any part thereof or to any class of seats therein at such performances or exhibitions;
- (f) the receipts from the sale of tickets or admissions to the said performances or exhibitions;
- (g) any other matter that the Lieutenant-Governor deems necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 319, s. 16.

Declarations
and
affidavits,
how taken.

17. Declarations or affidavits in connection with the issue of any licence under this Act or required by regulations passed pursuant to this Act, may be taken before any person having authority to administer oaths or before any person specially authorized for that purpose by the Lieutenant-Governor in Council, but any person so specially authorized shall not charge any fee therefor. R.S.O. 1937, c. 319, s. 17.

18. At every theatre in Ontario the National Anthem shall be played at the conclusion of each performance. R.S.O. 1937, c. 319, s. 18. Playing of National Anthem.

19. The council of a municipal corporation may pass by-laws prohibiting the erection of any theatre within 200 feet of a church or place of worship. R.S.O. 1937, c. 319, s. 19 (1). Prohibiting erection of theatre near church.

20. The inspector may in his discretion refuse to grant or may revoke for cause, or suspend any licence issued under this Act but any such decision of the inspector shall be subject to appeal to the Treasurer of Ontario. R.S.O. 1937, c. 319, s. 20. Discretion as to granting, refusing or revoking licences.

21. A projectionist or apprentice may appeal from any decision of the inspector to an appeal board appointed by the Treasurer of Ontario. R.S.O. 1937, c. 319, s. 21; 1941, c. 55, s. 38. Appeal by operator or apprentice.

22. A licence to operate a theatre shall be granted only when the building in which the theatre is located is of fire-resistive construction, provided that the inspector may in his discretion extend the time for altering or otherwise rendering any such building fire-resistive. R.S.O. 1937, c. 319, s. 22. Fire prevention.

23.—(1) No person shall have in his possession at or near any theatre, public hall or other place of amusement which is subject to this Act or the regulations made thereunder, or shall carry or bring in or upon, or attempt to carry or bring in or upon, or aid or assist in carrying or bringing in or upon any such premises, or shall throw, deposit, inject, or attempt to throw, deposit or inject, or aid or assist in throwing, depositing or injecting, in or upon any such premises, any vile, noxious, offensive smelling or injurious liquid, gas or solid, or any stink or stench bomb in any form, or any device from which such liquid, gas or solid may be liberated, and which upon being liberated may inconvenience, cause discomfort to or discommodate any person, or do damage to any property. Prohibition as to possession of noxious substances in or near theatre, etc.

(2) Every person who contravenes any of the provisions of subsection 1 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$500 and not more than \$1,000, and to imprisonment for one year, and if such penalty is not paid, to an additional term of imprisonment of nine months. R.S.O. 1937, c. 319, s. 23. Penalty.

CHAPTER 390

The Threshing Machines Act

1.—(1) Every person owning or running a threshing machine, wood-sawing or other machine, which is connected to a horse-power by means of a tumbling rod or line of shafting, shall cause each of the knuckles, couplings or joints and jacks of such tumbling rod or line of shafting to be safely boxed or secured while running, with wood, leather or metal covering, in such manner as to prevent injury to persons passing over or near such tumbling rod, and the knuckles, couplings or joints and jacks thereof, and shall cause all oiling cups attached to arbors or journals to which driving belts are attached to be furnished with tubes of tin or other material which shall extend above the belts in such manner as to prevent injury to a person oiling the machine when it is in motion, and shall cause a driver's platform of sufficient size to cover the gearing of the horse-power to be so placed on it when used for driving machinery as to prevent an injury to any person from contact with such gearing.

Certain machines to be so protected as to prevent injury to persons.

(2) No action shall be maintained, nor shall any legal liability exist, for services rendered by or with any such machine, where the provisions of this section have not been complied with. R.S.O. 1937, c. 321, s. 1.

Non-compliance bar to action.

2. Any person owning or running a threshing, wood-sawing or other machine, connected to a horse-power by means of a tumbling rod or line of shafting, who neglects or refuses to comply with the provisions of this Act, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$1 and not more than \$20. R.S.O. 1937, c. 321, s. 2.

Penalty for non-compliance.

3. All penalties imposed and collected under this Act shall be paid, one-half to the complainant or prosecutor, and the other half to the treasurer of the school section in which the offence was committed, for the use of the public school in such section. R.S.O. 1937, c. 321, s. 3.

Application of penalties.

4. All proceedings against any person for a violation of section 1 shall be commenced within 30 days after the commission of the offence. R.S.O. 1937, c. 321, s. 4.

Limitation of prosecution.

CHAPTER 391

The Ticket Speculation Act

1. In this Act, "ticket" means a card, pass or other document upon presentation of which the holder is entitled to admission to any theatre, opera house, public hall, show, game, grandstand, race meeting, exhibition or amusement of any kind. R.S.O. 1937, c. 310, s. 1. Interpretation.

2. Every person who, Offences,

- (a) being the holder of a ticket, sells or disposes of the ticket at a higher price than that at which it was first issued, or endeavours or offers so to do; selling;
- (b) purchases or attempts to purchase tickets with the intention of reselling them at a profit, or purchases or offers to purchase tickets at a higher price than that at which they are advertised or announced to be for sale by the owner or proprietor of any place mentioned in section 1, purchasing as a speculation or at a higher price than advertised.

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$50. R.S.O. 1937, c. 310, s. 2. Penalty.

3. This Act shall not apply to the sale of tickets by the proprietor of a shop or hotel stand or his servant when such proprietor is an agent of a theatre, opera house, public hall, grandstand, or of the owner or promoter of a show, game, race meeting, exhibition, or amusement of any kind for the sale of tickets, and where the commission charged upon the sale of each ticket does not exceed the maximum prescribed in the Schedule to this Act. R.S.O. 1937, c. 310, s. 3; 1948, c. 92, s. 1. Exception as to sale on commission at hotel stands and stores.

SCHEDULE

| Price of Ticket | Maximum Commission |
|-----------------------|--------------------|
| Up to \$1.99..... | .25 |
| \$2.00 to \$2.99..... | .35 |
| 3.00 to 3.99..... | .45 |
| 4.00 and up..... | .50 |

1948, c. 92, s. 2.

10

1. The first part of the book is devoted to a general survey of the history of the theory of the structure of the atom. It begins with the discovery of the electron by Cathode ray experiments and continues with the discovery of the nucleus by Rutherford's experiments.

2. The second part of the book is devoted to a detailed study of the structure of the atom. It begins with the study of the electron and continues with the study of the nucleus. The third part of the book is devoted to a study of the properties of the atom.

3. The fourth part of the book is devoted to a study of the properties of the atom. It begins with the study of the electron and continues with the study of the nucleus.

4. The fifth part of the book is devoted to a study of the properties of the atom. It begins with the study of the electron and continues with the study of the nucleus. The sixth part of the book is devoted to a study of the properties of the atom.

5. The seventh part of the book is devoted to a study of the properties of the atom. It begins with the study of the electron and continues with the study of the nucleus. The eighth part of the book is devoted to a study of the properties of the atom.

CHAPTER 392

The Tile Drainage Act

1.—(1) Subject to sections 67 and 68 of *The Ontario Municipal Board Act*, the council of a town, village or township may pass by-laws (Form 1) for borrowing for the purposes hereinafter mentioned, in sums of not less than \$2,000, and not exceeding \$200,000 in the whole, such amount as they may deem expedient, and for issuing therefor debentures of the municipality (Form 2), payable within 10 or 20 years from the date of the debentures, which shall bear date in the year in which the money is borrowed from the municipality as is hereinafter provided, and bearing interest at a rate of not less than three per cent per annum, and it shall not be necessary to obtain the assent of the electors to any such by-law before the passing thereof. R.S.O. 1937, c. 72, s. 1 (1); 1939, c. 50, s. 1 (1); 1943, c. 34, s. 1. Borrowing powers of councils. Rev. Stat., c. 262.

(2) The amount of the indebtedness of the municipality in respect of money so borrowed and remaining unpaid, including the amount provided for in any by-law being passed, shall not at any time exceed \$200,000, and no such by-law shall be passed except at a meeting of the council specially called for the purpose of considering it and of which notice has been published in accordance with subsection 3. R.S.O. 1937, c. 72, s. 1 (2); 1939, c. 50, s. 1 (2). Proviso.

(3) A notice (Form 3) of every such meeting shall be published at least once each week for three successive weeks in such newspaper as the council may by resolution direct, and the first publication of the notice shall be not less than four weeks prior to the holding of the meeting. 1939, c. 50, s. 1 (3). Notice of meeting.

(4) Notwithstanding subsections 1 and 2, the council of a town, village or township, the assessment of the whole rateable property in which according to the last revised assessment roll is not less than \$3,000,000, may for the purposes hereinafter mentioned borrow in sums of not exceeding \$300,000 in the whole, provided the indebtedness in respect of money so borrowed and remaining unpaid shall not at any time exceed \$300,000. R.S.O. 1937, c. 72, s. 1 (3). Borrowing powers where assessment less than \$3,000,000.

2.—(1) After the passing of the by-law a copy of it shall be published in such public newspaper, published in the Publication of by-law.

municipality or in the county town or in an adjoining or neighbouring municipality, as the council may by resolution designate, and in at least one number of such newspaper each week for three successive weeks.

Notice to be appended.

(2) To each copy of the by-law shall be appended a notice (Form 4).

When by-law to be valid.

(3) If notice of an application to quash the by-law or any part thereof is not given within 20 days after the last publication under this section, or if such notice is given and the application is not made within one month after the last publication, the by-law shall not be questioned in any court and shall be valid and binding according to the terms thereof. R.S.O. 1937, c. 72, s. 2.

Application of proceeds.

3. The debentures may be issued and sold by the municipality from time to time, for the purpose only of lending the proceeds thereof for tile, stone or timber drainage, as herein-after provided, as money is required for the purpose. R.S.O. 1937, c. 72, s. 3.

Form of debentures, and coupons.

4. The debentures shall be made payable to the Treasurer of Ontario and shall have coupons attached thereto which shall be for equal annual amounts of principal and interest. R.S.O. 1937, c. 72, s. 4.

Application for disposal of debentures.

5.—(1) The council, after the expiration of one month from the last publication under section 2, shall deposit with the Treasurer of Ontario a copy of the by-law, with affidavits of the head and clerk of the municipality (Forms 5 and 6), and may at any time thereafter apply for the purchase by the Province of the debentures authorized thereby. R.S.O. 1937, c. 72, s. 5 (1); 1939, c. 50, s. 2.

Form of application.

(2) The application shall be sealed with the seal of the municipality and signed by the head thereof, and shall specify the names of the persons to whom the money is to be lent. R.S.O. 1937, c. 72, s. 5 (2).

Report by Provincial Treasurer.

6. The Treasurer of Ontario shall investigate and report to the Lieutenant-Governor in Council as to the propriety of all proposed investments in the order in which the applications therefor are received. R.S.O. 1937, c. 72, s. 6.

Application by owner for loan.

7.—(1) A person assessed as owner, and being the actual owner of land in the municipality, desiring to borrow money for the purpose of tile, stone or timber drainage may make application (Form 7) to the council.

(2) The application shall not be acted upon unless it is accompanied by a declaration of the applicant stating that he is the actual owner of the land mentioned in the application, and that the land is free from encumbrance, or if the land or any part of it is mortgaged or otherwise encumbered, stating the name and address of the mortgagee or encumbrancer, and, where it has been assigned, the name of the assignee of the mortgage or encumbrance with his address. Statutory declaration of applicant.

(3) Where it appears that there is a mortgage or encumbrance upon the land or any part of it the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered letter, sent to him by the clerk to his last known address. R.S.O. 1937, c. 72, s. 7. Notice to encumbrancer.

(4) If a mortgagee, encumbrancer or assignee notifies the clerk in writing, within the time specified in subsection 3, that he objects to the granting of the application, the council shall hold a hearing of which the clerk shall give at least five days notice in writing by registered post to the applicant and to the mortgagee, encumbrancer or assignee who gave the notice. Hearing.

(5) The granting or refusal of any application shall be in the discretion of the council whose decision shall be final. 1949, c. 105, s. 1. Discretion of council.

8. If the application is granted the council may issue debentures for such sum within the amount authorized by this Act and by the by-law of the municipality, as it may deem proper, but not exceeding the sum applied for, nor exceeding 75 per cent of the estimated cost of the drainage. R.S.O. 1937, c. 72, s. 8. Issuing debentures.

9. The Lieutenant-Governor in Council may authorize the investment of any surplus of the Consolidated Revenue Fund not exceeding in the whole at any time \$3,000,000 in the purchase of debentures issued under such by-laws in respect of which the Treasurer of Ontario has certified to the propriety of the investment. R.S.O. 1937, c. 72, s. 9. Purchase of debentures out of Consolidated Revenue Fund.

10. Notwithstanding any of the provisions of this Act, no application shall be granted by a council until the Treasurer of Ontario has approved the purchase of such debentures as the council may require to issue to undertake a proposed drainage work. R.S.O. 1937, c. 72, s. 10. Approval by Treasurer necessary before application granted.

11. After such investment, the debentures shall not be questioned in any court and shall be valid and binding according to the terms thereof. R.S.O. 1937, c. 72, s. 11. Debentures not to be questioned.

Assignment
of
debentures.

12. The Treasurer of Ontario may sell, transfer and assign to the Accountant of the Supreme Court of Ontario or to the Workmen's Compensation Board any debentures issued under this Act after the 1st day of June, 1939. 1939, c. 50, s. 3.

Application
of proceeds
of loans.

13.—(1) The council shall lend the money so borrowed only for the purpose of tile, stone or timber drainage and for a term of 10 or 20 years, in sums of \$100 or multiples thereof, subject to section 14, as the council may deem proper, to persons entitled to borrow.

Who may
borrow.

(2) No part of the money so borrowed shall be lent to any member of the council, but a person having so borrowed from a municipality shall not by reason thereof be disqualified from being afterwards elected a member of the council. R.S.O. 1937, c. 72, s. 12.

Limit of
loan to
individual.

14. The amount loaned to any one person shall not exceed \$3,000 for each 100 acres or fraction thereof, nor 75 per cent of the total cost of the work. R.S.O. 1937, c. 72, s. 13; 1949, c. 105, s. 2.

Order in
which loans
are to be
granted.

15. The council shall consider the applications in the order in which they are made, and shall lend the money in the same order to the persons whose applications are approved. R.S.O. 1937, c. 72, s. 14.

Appoint-
ment of
Inspector.

16. A council borrowing money under this Act shall employ a competent inspector of drainage, the cost of whose services and whose expenses shall be apportioned rateably against the works carried on under his inspection, and shall be paid by the council out of the money borrowed. R.S.O. 1937, c. 72, s. 15.

Inspector's
report.

17.—(1) On the completion to his satisfaction of any drainage work under his charge, the inspector shall file with the clerk a report to the council certifying that in his opinion the work has been satisfactorily completed, and showing,

- (a) the number of rods of drainage constructed on each lot or parcel of land;
- (b) the cost per rod;
- (c) a plan of the work; and
- (d) such other particulars as may be required by the council. 1949, c. 105, s. 3.

Record.

(2) The report shall be entered in a book provided by the council, and the money shall not be advanced by the council

until the report of the due completion of the work has been so made. R.S.O. 1937, c. 72, s. 16 (2).

18. The council shall impose by by-law (Form 8), and shall levy and collect for the term of 10 or 20 years as the council may elect, over and above all other rates upon the land in respect of which the money is lent, a special equal annual rate sufficient to discharge the principal and interest of the money lent in 10 or 20 years as the case shall be, and the rate shall be collected in the same manner as other special rates imposed under *The Municipal Act*. R.S.O. 1937, c. 72, s. 17. Collection of special rate.
Rev. Stat.,
c. 243.

19.—(1) Where a part of a parcel of land in respect of which money has been lent is sold, the council of the municipality may apportion the special annual rate between the part sold and the part remaining. Sale of part of land rated for work.

(2) The clerk shall give the owners of the parts into which the parcel is divided and the mortgagees, encumbrancers or assignees at least five days notice in writing by registered post of the time and place the council will make the apportionment. Notice.

(3) The council in making the apportionment shall have regard to the part of the parcel affected by the drainage work and such other matters as it deems expedient and the decision of the council with respect to the apportionment shall be final. Apportionment of rate.

(4) The apportionment shall be filed in writing with the clerk and thereafter the special annual rate shall be levied and collected in accordance with the apportionment. 1949, c. 105, s. 4. Filing of apportionment.

20. The owner of land in respect of which money has been borrowed may at any time obtain the discharge of the indebtedness by paying to the treasurer of the municipality the amount borrowed, with interest thereon at the rate payable by the municipality to the Treasurer of Ontario or his assignee on the debentures of the municipality which the Treasurer or his assignee holds in respect of the said indebtedness, less any sum already paid on account of principal and interest, and upon the same being paid to the treasurer, he shall forthwith transmit it to the Treasurer of Ontario or his assignee who shall apply it towards payment of the debentures of the municipality. 1939, c. 50, s. 4. Discharge of indebtedness by owner.

21. A council which has borrowed money shall, on or before the 15th day of January in each year, make a return to the Provincial Secretary, showing, for the year which ended on the 31st day of December next preceding, the Returns to Provincial Secretary by municipal council.

amount expended in drainage, the number of rods of drain constructed, the names of the borrowers, the land upon which the money has been lent, the names of the persons whose applications have been refused and the reasons in each case for the refusal. R.S.O. 1937, c. 72, s. 19.

Repayment
by municipal-
pality to
Province.

22.—(1) The amount payable in each year for principal and interest shall be remitted by the treasurer of the municipality to the Treasurer of Ontario or his assignee within one month after it became payable, together with interest at the rate of seven per cent per annum during the time of any default in payment. R.S.O. 1937, c. 72, s. 20 (1); 1939, c. 50, s. 5, *part*.

Consequence
of default
in payment.

(2) In case of a continuance of such default the council, in the next ensuing year or as the case may require, shall assess and levy on the whole rateable property within its jurisdiction, in the same manner in which taxes are levied for the general purposes of the municipality, a sum over and above the other valid debts of the corporation falling due within the year sufficient to enable the treasurer to pay the amount in arrear, together with interest thereon at the rate of seven per cent per annum, from the time the same became payable until payment whether or not the same has been previously paid by or recovered from the persons or lands chargeable therewith.

How arrears
ranked as
a charge.

(3) The amount so in arrear and the interest shall be the first charge upon all the funds of the municipality other than sinking funds, for whatever purpose or under whatever by-law they may have been raised. R.S.O. 1937, c. 72, s. 20 (2, 3).

Duty of
municipal
treasurer
after
default.

(4) No treasurer or other officer shall, after such default, pay out of the funds of the municipality any sum except for the ordinary current disbursements, and salaries of clerks and other employees of the municipality or debts due to the Province until the amount so in arrear and the interest has been paid to the Treasurer of Ontario or his assignee. R.S.O. 1937, c. 72, s. 20 (4); 1939, c. 50, s. 5, *part*.

Liability of
municipal
officers.

(5) If the municipal treasurer or other officer pays any sum contrary to the provisions of subsection 4, in addition to any criminal liability which he may thereby incur, he shall be personally liable for every sum paid as for money had and received by him for the Crown.

Penalty for
violation.

(6) Any member of the council who wilfully or negligently permits any of the foregoing provisions to be violated shall also be personally and individually liable for the full amount so in arrear and the interest, to be recovered as for money had and received by him for the Crown.

(7) No assessment, levy or payment made under this section shall exonerate the persons or lands chargeable under the by-law from liability to the municipality. R.S.O. 1937, c. 72, s. 20 (5-7). Liability of lands to municipality not affected.

23. The Lieutenant-Governor in Council may make regulations and prescribe forms for the carrying out of the provisions of this Act, and, subject thereto, the forms in the Schedule hereto shall be used. R.S.O. 1937, c. 72, s. 21. Regulations and forms.

SCHEDULE

FORM 1

(Section 1)

FORM OF BY-LAW

By-law No......

A by-law to raise \$.....to aid in the construction of tile, stone or timber drains.

The Council of the.....of....., pursuant to *The Tile Drainage Act*, enacts as follows:

1. That the Reeve (or Mayor) may from time to time, subject to the provisions of this by-law, borrow on the credit of the corporation of the Municipality such sum not exceeding in the whole \$....., as may be determined by the Council, and may in manner hereinafter provided, issue debentures of the corporation in such sums as the Council may deem proper for the amount so borrowed, with coupons attached as provided in section 4 of the said Act.

2. That, subject to section 10 of *The Tile Drainage Act*, when the Council is of opinion that the application of any person to borrow money for the purpose of constructing a tile, stone or timber drain should be granted in whole or in part, the Council may, by resolution, direct the Reeve (or Mayor) to issue debentures as aforesaid and to borrow a sum not exceeding the amount applied for, and may lend the same to the applicant on the completion of the drainage works.

3. A special annual rate shall be imposed, levied and collected over and above all other rates upon the land in respect of which the money is borrowed, sufficient for the payment of the principal and interest as provided by the Act.

Passed the.....day of.....19.....

A. B.,
Reeve (or Mayor)
C. D.,
Clerk

(Corporate
seal)

R.S.O. 1937, c. 72, Form 1; 1939, c. 50, s. 6.

FORM 2

(Section 1)

FORM OF TILE DRAINAGE DEBENTURE

\$..... No.....
 Drainage Debenture of the..... of.....
 The Corporation of the..... of....., in the County of.....
 hereby promises to pay to the Treasurer
 of Ontario or order at the Bank of..... in the.....
 of....., the sum of \$..... of lawful money of Canada, and interest
 thereon at..... per cent in..... equal annual instalments of \$.....
 each, the first of such instalments to be paid on the.....
 day of....., 19....., pursuant to by-law No.....
 entitled "A by-law to raise \$....., to aid in the construc-
 tion of tile, (stone or timber) drains".

(Corporate Seal)

A. B.,
 Reeve (or Mayor)

G. H.,
 Treasurer

FORM OF COUPON

Coupon for twentieth Annual
 Instalment of..... Drainage
 Debenture No. 1, issued under
 By-law No..... of the.....
 of..... \$..... payable at the
 Bank of..... in the..... of
 on..... day of.....,
 19.....

A. B.,
 Reeve (or Mayor)

G. H.,
 Treasurer

R.S.O. 1937, c. 72, Form 2.

FORM 3

(Section 1)

NOTICE OF MEETING TO CONSIDER BY-LAW

Take notice that a by-law for raising \$..... under the
 provisions of *The Tile Drainage Act*, will be taken into consideration by
 the Council of the.....
 of..... at the..... of....., on the..... day
 of....., 19....., at the hour of..... o'clock in the
 noon.

C. D.,
 Clerk

R.S.O. 1937, c. 72, Form 3.

FORM 4

(Section 2)

NOTICE

Corporation of the of

Take notice that the above is a true copy of a By-law passed by the Council of the of on the day of 19....., and all persons are required to take notice that any one who desires to apply to have the by-law or any part thereof quashed must serve notice of his application upon the Head or Clerk of this municipality within 20 days after the date of the last publication of this notice, and must make his application to the Supreme Court of Ontario within one month after the said date. This notice was first published on the day of 19....., and the last publication will be on the day of 19.....

A. B.,
Clerk

R.S.O. 1937, c. 72, Form 4.

FORM 5

(Section 5)

AFFIDAVIT OF HEAD OF MUNICIPALITY

County of } I, of the
TO WIT: } of in the County of
Reeve (or Mayor) of the of make
oath and say:

I have not been served with any notice of intention to make application to quash a by-law passed on the day of 19....., by the Municipal Council of the said of No. entitled (*insert the title of by-law*), nor have I been served with any notice of intention to make application to quash any part of the by-law, nor with any notice to that or the like effect.

Sworn, etc.,

A. B.

R.S.O. 1937, c. 72, Form 5.

FORM 6

(Section 5)

AFFIDAVIT OF CLERK

County of } I, of the
TO WIT: } of in the County of
Clerk of the said of make
oath and say:

1. On the day of 19....., the Council of the said of at a meeting specially called for that purpose passed a by-law for borrow-

ing money to be lent for the construction of tile, stone or timber drains, being No. and entitled (*insert title of by-law*), a copy of which certified by me is now shown to me marked "A".

2. Notice of the meeting was given by publication on (*insert here the dates of publication*) in the (*insert names of newspapers*), copies of which newspapers are shown to me and marked "B", "C", and "D".

3. A notice, a copy of which is now shown to me marked "E", was published on (*insert here the dates of publication*), in the (*insert name of newspaper*), being the newspaper in which the Council did by resolution direct the publication thereof, copies of which newspaper containing the said notice are now shown to me and marked "F", "G", and "H".

4. I have not been served with any notice of intention to make application to quash the by-law, or any part thereof, nor with any notice to that or the like effect.

Sworn, etc.

C. D.

R.S.O. 1937, c. 72, Form 6.

FORM 7

(Section 7)

APPLICATION FOR LOAN

To the Council of

I, *E. F.*, owner of (*if part state what part*) lot No. in
..... Concession of the Township of (*or as
the case may be*) apply for a loan of \$..... to assist in
the construction of rods of
drain, on the said land. The proposed depth of drain is
inches, the proposed size of tile is inches (1).

E. F.

(1) *If the proposed drain is to be stone or timber for the words "size of tile" substitute the words "inside size of drain".*

R.S.O. 1937, c. 72, Form 7.

FORM 8

(Section 18)

BY-LAW IMPOSING A RATE

*By-law imposing a Special Drainage rate upon Lot in the
..... Concession.*

Whereas *E. F.*, the owner of (*if part state what part*) Lot in
the Concession of the Township of (*or as the case may
be*), applied to the Council of the said Township under *The Tile Drainage
Act*, for a loan for the purpose of draining the said land; And whereas the

said Council has, upon his said application, lent the said *E. F.*, the sum of \$1,000 (*or as the case may be*), to be repaid with interest by means of the rate hereinafter imposed:

Be it therefore enacted, by the said Council, that an annual rate of per annum is hereby imposed upon the said land for a period of years, such rate to be levied and collected at the same time and manner as ordinary taxes are levied and collected.

Passed this day of, 19.....

(Corporate
seal)

A. B.,
Reeve (*or* Mayor)
C. D.,
Clerk

R.S.O. 1937, c. 72, Form 8.

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CHAPTER 393

The Tourist Establishments Act

1. In this Act,

Interpre-
tation.

- (a) "Minister" means Minister of Travel and Publicity;
- (b) "operator" means the owner or lessee of a tourist establishment or the resident manager or other person in charge thereof;
- (c) "regulations" means regulations made under this Act;
- (d) "tourist establishment" means any premises operated for the accommodation of the travelling or vacationing public within the meaning of the regulations, but does not include any premises licensed under *The Liquor Licence Act* or *The Game and Fisheries Act* or any camp operated by a charitable institution within the meaning of *The Charitable Institutions Act* or any summer camp within the meaning of the regulations made under *The Public Health Act*, 1949, c. 106, s. 1.

Rev. Stat.,
cc. 211, 153,
49, 306.

2.—(1) The Lieutenant-Governor in Council may make Regulations, regulations,

- (a) defining and classifying tourist establishments;
- (b) providing for the licensing of tourist establishments and the suspension and cancellation of licences and prescribing the fees payable for licences and renewals thereof;
- (c) providing for inspection of tourist establishments and for designation by the Minister of officials and employees of the Government as inspectors and, subject to the approval of the Minister, for designation by municipal councils or by local boards of health of municipalities of officials and employees of the council or local board of health, respectively, as inspectors and for prescribing the powers and duties of inspectors so designated;
- (d) prescribing ground plans for tourist establishments including specifications governing the relative posi-

tions of and distances between the component parts of such establishments;

- (e) prescribing specifications governing the construction and size of buildings and other structures comprising tourist establishments;
- (f) prescribing cubic space requirements in respect of living and sleeping accommodation in tourist establishments;
- (g) prescribing the fire prevention measures that shall be taken and the fire-fighting equipment that shall be maintained in tourist establishments;
- (h) governing and regulating the manner in which the grounds, buildings, equipment and other facilities of tourist establishments shall be maintained, including the cleaning, fumigating and sterilizing of any part thereof;
- (i) prescribing requirements for tourist establishments in respect of water-closets and other sanitary facilities, water supply, plumbing, ventilation, heating, lighting, electrical equipment, food handling, disposal of garbage and other waste and other matters pertaining to the health and welfare of persons accommodated;
- (j) prescribing the maximum number of tourist establishments for any designated area;
- (k) requiring operators to display notices or insignia indicating the class of establishment operated, and prescribing such notices or insignia;
- (l) requiring operators to maintain a register of the persons, motor vehicles and trailers accommodated, and requiring persons accommodated to register therein, and prescribing the information that shall be entered in the register by the operator and by the person accommodated;
- (m) prescribing rules to be observed by persons accommodated in tourist establishments;
- (n) requiring the operators of tourist establishments to keep posted in every room or building used for sleeping accommodation a notice specifying the rates charged for the room or building;
- (o) prescribing the minimum amount of furniture, bedding, linen, heating and lighting devices, electrical outlets, utensils, dishes, cutlery, floor covering, window covering and other fixtures, furnishings,

appliances and equipment that shall be provided in tourist establishments;

- (p) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The Lieutenant-Governor in Council may in respect of any regulation, Application of regulations.

- (a) designate the classes of tourist establishments to which it shall apply;
- (b) designate the portions of Ontario within which it shall be in force;
- (c) provide that it shall apply only to tourist establishments established before or after a designated date. 1949, c. 106, s. 2.

3. Any regulation made under clauses *d* to *i* of subsection 1 of section 2 shall be regarded as containing minimum requirements only and the council of any city, town, village or township or the board of trustees of any improvement district in which any such regulation is in force may pass by-laws prescribing further or additional requirements with regard to any of the matters mentioned in the regulation, and every such by-law shall apply to the tourist establishments in the municipality to which the regulation previously applied. 1949, c. 106, s. 3. Powers of municipalities.

4. The council of every city and town shall provide for the inspection of the tourist establishments in the municipality and shall be responsible for the enforcement in the municipality of the regulations and any by-law passed under section 3 but nothing in this section shall preclude inspection and enforcement by any provincial inspector. 1949, c. 106, s. 4. Responsibility for inspection.

5. Every municipal inspector shall make such reports respecting the tourist establishments in the municipality as the Minister may require. 1949, c. 106, s. 5. Report to Minister.

6. Every person who violates any regulation or violates any by-law passed under section 3, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. 1949, c. 106, s. 6. Offences and penalties.

7. Every penalty imposed as the result of any proceeding instituted by a municipal inspector for any violation of any regulation or any violation of any by-law passed under section 3 shall be payable to the municipal corporation. 1949, c. 106, s. 7. Application of penalty.

CHAPTER 394

The Town Sites Act

1. Subject to section 5, where any lot or parcel of Crown land sold, located or staked out under any Act of the Legislature is laid out as a town site or subdivided into lots or parcels for commercial, industrial, residential or summer resort purposes within five years of the issue of letters patent granting such lot or parcel, one-quarter in acreage of all the lots or parcels shown on such plan or subdivision shall become the property of and be vested in the Crown. 1947, c. 109, s. 1.

Right of
Crown to
one-quarter
of lots.

2. The land to be so vested shall be ascertained as nearly as practicable as follows: The Minister of Lands and Forests shall first select one lot or parcel, and the owner shall then select three lots or parcels and so on in turn, the Minister selecting one and the owner three until the division is made. R.S.O. 1937, c. 46, s. 2.

Method of
selection.

3. Every such plan or subdivision shall show the selection so made by marking upon each lot or parcel selected by the Minister, the word "Crown", and shall be approved of by the Lieutenant-Governor in Council and signed by the Minister of Lands and Forests. R.S.O. 1937, c. 46, s. 3.

Showing
selection
on plan.

4. No such plan or subdivision and no instrument referring thereto shall be registered in any registry office or land titles office, nor shall any person acquire any title to any lot or parcel after such division, until the plan or subdivision has been so approved and signed. R.S.O. 1937, c. 46, s. 4.

Conditions
precedent to
registration
and title.

5. Where it is deemed advisable so to do the Lieutenant-Governor in Council may agree to accept a money payment in lieu of the rights of the Crown under this Act. R.S.O. 1937, c. 46, s. 5.

Commuted
Crown's
rights in
townsite for
money
payment.

6. Where any land so laid out as a town site, or so subdivided has been sold, leased, located or staked out under *The Mining Act*, the ores and minerals under the surface of the land thus vested in the Crown, shall remain the property of and be vested in the person by whom the town site is laid

Ores and
minerals.

Rev. Stat.,
c. 236.

out or land so subdivided or any person to whom he has conveyed his rights. R.S.O. 1937, c. 46, s. 6.

Disposing of
lots selected
by Crown.

7. The land which becomes vested in the Crown under this Act may be sold, leased or otherwise disposed of in such manner and under such regulations as the Lieutenant-Governor in Council may from time to time prescribe. R.S.O. 1937, c. 46, s. 7.

Entry of
Crown as
owner on
land titles
register.

8. The presentation to the local master of titles for registration of any such plan signed by the Minister of Lands and Forests shall be a sufficient authority for the local master to enter His Majesty as owner of the lots marked as selected for the Crown as aforesaid. R.S.O. 1937, c. 46, s. 8.

CHAPTER 395

The Trade Schools Regulation Act

1. In this Act,

(a) "Minister" means Minister of Education;

Interpre-
tation.

(b) "trade" means the skill and knowledge requisite for or intended for use in the construction, building, repair or operation of aircraft, steam engines, boilers, internal combustion engines or machinery of any kind, and any other occupation, calling or vocation designated as a trade by the regulations;

(c) "trade school" means any school or place wherein any trade is taught or purported to be taught, or wherein any course of study by correspondence of a trade is organized, promoted, carried on, taught or purported to be taught other than a university recognized by the Department of Education or a school or course of instruction maintained under any Act of the Legislature. 1938, c. 43, s. 2.

2. No person shall keep or operate a trade school unless he is registered pursuant to this Act. 1938, c. 43, s. 3.

Operation
of trade-
school
without
registration
prohibited.

3. Every person desirous of keeping or operating a trade school shall make application for registration in writing to the Minister in such form and with such particulars as he may prescribe in respect of the trade school. 1938, c. 43, s. 5.

Application
for regis-
tration of
future trade
schools.

4. Every registration under this Act shall expire on the 31st day of December of the year in respect of which the registration is effected, and every person who is registered may make application to the Minister for the renewal of his registration in the same manner as is hereinbefore provided in the case of a first registration. 1938, c. 43, s. 6.

Expiration
and renewal
of regis-
tration.

5. Upon the applicant for registration or for renewal of registration, as the case may be, complying with the requirements of the Minister and satisfying him that the trade school is provided with competent instructors and sufficient equipment for the teaching of any specified trade or trades, and is

Certificate
of regis-
tration.

furnishing or is prepared to furnish proper instruction in such trade or trades, at reasonable rates, the Minister may cause the applicant to be registered as the keeper or operator of a trade school for the teaching of the specified trade or trades, and may issue a certificate of registration accordingly. 1938, c. 43, s. 7.

Power to
inspect
trade
schools.

6. The Minister, or any person authorized by him in writing, may inspect any trade school at any time during which it is being kept or operated, to observe the method of instruction given therein, and to inspect the business books and records, and all circulars, pamphlets and other material used for advertising the trade school and the instruction afforded therein, and any person who obstructs the Minister or authorized person in making any inspection or observation or who refuses or neglects to produce any business book or record upon demand shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100, and in default of payment, to imprisonment for a term of not more than two months. 1938, c. 43, s. 8.

Cancellation
of
registration.

7. If, as the result of any inspection of any trade school, or upon being otherwise credibly informed, the Minister is satisfied that a trade school in respect of which registration has been made under this Act is insufficiently provided with the means of instruction, or that the charges made for the instruction given are unreasonable, or that any regulation pursuant to this Act is not observed therein, he may cancel the registration, and thereupon the registration and the certificate thereof shall be null and void. 1938, c. 43, s. 9.

Offences and
penalties.

8.—(1) Every person who,

- (a) keeps or operates a trade school at a time when he is not registered pursuant to this Act as the keeper or operator of that trade school; or
- (b) keeps or operates a trade school for the purpose of giving instruction in a trade not specified in his certificate of registration; or
- (c) enters into any contract for the furnishing of instruction in a trade other than the contract set out in the application for registration, or a contract which has been approved by the Minister; or
- (d) whether acting as the owner or operator of a trade school or as an agent or representative thereof, or otherwise, sells or offers to sell instruction or a course of instruction in any trade, unless such instruction or course of instruction is a course of instruction

specified in the certificate of registration of a trade school registered under this Act, and unless in the case of a sale, such sale is evidenced by a contract in a form approved by the Minister; or

(e) is knowingly responsible for the violation of any of the provisions of this Act or the regulations,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$1,000 for a first offence and not more than \$2,000 for a second or subsequent offence and in case of either a first, second or subsequent offence, either in default of payment of any penalty imposed or in addition to any such penalty, to imprisonment for a term of not more than six months. 1938, c. 43, s. 10; 1940, c. 33, s. 1 (1), (2) *part*.

(2) Subsection 1 shall be deemed to apply *mutatis mutandis*, Increase in penalties. to any company save that the money penalties may be increased in the discretion of the magistrate to not more than \$25,000. 1940, c. 33, s. 1 (2), *part*.

9. No person who is not registered as the keeper or operator of a trade school under this Act shall be capable of maintaining an action or other proceeding in any court in Ontario in respect of any contract made in whole or in part within Ontario or against any person domiciled in Ontario in the course of or in connection with business carried on by any trade school. 1938, c. 43, s. 11. Court proceedings.

10. The Lieutenant-Governor in Council may make Regulations. regulations,

(a) prescribing the security to be provided by the keeper or operator of any trade school for the due performance of his contracts;

(b) prescribing the accommodation and equipment required by trade schools and the means of instruction to be used;

(c) prescribing the minimum number of hours of instruction in any trade which shall constitute a course of instruction in that trade;

(d) prescribing the maximum fees which shall be paid or received for a course of instruction in any trade;

(e) prescribing the terms and conditions upon which money paid for or on account of instruction in any trade school shall be either retained by the payee or be payable to the payer;

- (f) prohibiting the use of any advertising relating to any trade school which may tend to mislead, and requiring the discontinuance of any specified advertisement or means of advertisement by the keeper or operator of any trade school;
- (g) regulating the selling or offering for sale of any course of instruction offered by a trade school;
- (h) prescribing the amount that may be asked, charged or received from the public for any article produced entirely or in part in any trade school, or for the material used by or for the services of any employee or student of the trade school;
- (i) limiting the number or amount of articles, goods or commodities produced in any trade school so that it may not compete unfairly with the production of similar articles, goods or commodities in any factory or shop;
- (j) fixing the times during which the public may obtain service in any trade school;
- (k) designating any occupation, calling or vocation as a trade within the meaning of this Act;
- (l) exempting any trade or trade school from the operation of this Act and the regulations;
- (m) fixing the fees that shall be payable on applications for registration or renewal of registration under this Act;
- (n) providing, in the case of any specified trade school, that no certificate or other document as to the competency of any person shall be issued by that trade school unless that person has submitted himself to such examination and by such persons as may be prescribed by the regulations, and prescribing fees for such examination and certificate;
- (o) providing for the making of annual returns and the furnishing of information to the Minister by the keepers and operators of trade schools;
- (p) generally, as to the conduct, operation and management of trade schools, and the nature of any examinations for certificates of competency, the manner, times, and places of holding such examinations, and the persons who shall sit as examiners. 1938, c. 43, s. 12.

11. This Act shall not apply to any trade which is a designated trade under *The Apprenticeship Act*. 1938, c. 43, s. 13. Application of Act. Rev. Stat., c. 19.

12. For the purpose of carrying out the provisions of this Act, the Lieutenant-Governor in Council may appoint such officers as may be considered necessary or expedient. 1938, c. 43, s. 14. Appointment of staff.

CHAPTER 396

The Training Schools Act

1. In this Act,

Interpre-
tation.

- (a) "Board" means The Training Schools Advisory Board;
- (b) "Department" means Department of Reform Institutions;
- (c) "foster home" includes the dwelling of any trustworthy and respectable person in which a boy or girl is permitted to live under section 22, a home or other institution maintained by any religious or charitable organization for the purpose in whole or in part of providing a home for boys or girls or both and any hospital connected therewith, and any other home, institution or place designated by the Board;
- (d) "inspector" means an officer of the Department designated as such by the Minister;
- (e) "judge" means judge of a county, district or juvenile court, or magistrate;
- (f) "Minister" means Minister of Reform Institutions;
- (g) "municipality" means county, city or separated town, and in a provisional judicial district also means a town having a population of 5,000 or over or a township having a population of 5,000 or over;
- (h) "Ontario training school" means a training school owned and operated by the Government of Ontario under this Act;
- (i) "private training school" means a training school operated by a society under this Act;
- (j) "regulations" means regulations made under this Act;
- (k) "society" means religious society, organization or order or charitable or philanthropic organization;
- (l) "superintendent" means superintendent or other person in charge of a training school;

(m) "training school" means an Ontario training school or a private training school. 1939, c. 51, s. 1, *amended*.

Purpose of
training
schools.

2.—(1) The purpose of a training school shall be to provide the boys or girls therein with a mental, moral, physical and vocational education, training and employment.

Gifts.

(2) Any municipal corporation and any association, corporation or individual may make gifts of real or personal property to a training school. 1939, c. 51, s. 2.

Ontario
training
schools.

3.—(1) The Lieutenant-Governor in Council may provide for the establishment of Ontario training schools.

Name.

(2) Every Ontario training school shall bear the name "The Ontario Training School for Boys (*or* Girls)" followed by the name of the municipality in which the school is located or the name of such other municipality as the Lieutenant-Governor in Council may designate.

Property.

(3) All real and personal property acquired by purchase, gift or otherwise pertaining to Ontario training schools shall be vested in the Crown represented therein by the Minister of Public Works.

Cost.

(4) The cost of establishing and maintaining Ontario training schools shall be paid out of such moneys as may be appropriated for the purpose by the Legislature and all revenues from whatsoever source derived by or pertaining to Ontario training schools shall form part of the Consolidated Revenue Fund. 1939, c. 51, s. 3.

Private
training
schools.

4.—(1) The Lieutenant-Governor in Council may, upon the recommendation of the Minister, authorize any society to establish and maintain a private training school, provided that, subject to the other provisions of this Act, a society so authorized shall be responsible for the maintenance in proper condition of such training school, its premises and equipment, and the Lieutenant-Governor in Council may cancel any such authority for any reason which in his opinion warrants such cancellation.

Name.

(2) A private training school shall bear such name or other designation as may be approved by the Lieutenant-Governor in Council, but no such name or designation shall contain the expression "Ontario Training School".

Approval of
site and
plan.

(3) A private training school shall not be erected, acquired or established until the site and plans of the buildings have been approved in writing by the Minister, and no change in the site and no sale or disposal of any portion thereof, and no

structural alteration in the buildings shall be made until the like approval has been given.

(4) Any religious corporation may set apart and grant or lease for a nominal consideration or otherwise for training school purposes any land which it has a general power to dispose of for religious, charitable or educational purposes, without being deemed guilty of a breach of trust. 1939, c. 51, s. 4. Granting or leasing of land.

5.—(1) There shall be a board of five members to be known as The Training Schools Advisory Board, the members of which shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure, and the Lieutenant-Governor in Council may designate one of the members to be chairman of the Board. Advisory Board.

(2) The Minister may appoint a secretary for the Board. Secretary.

(3) The Board shall meet at the call of the Minister or the chairman. Meetings.

(4) The Board shall act in an advisory capacity to the Minister and when requested by him so to do shall consult with him as to the administration of this Act and of training schools. Board to act in advisory capacity.

(5) The Board shall by visiting, inspecting and otherwise investigating training schools, ascertain the condition thereof and of the boys and girls therein, particularly as to matters of moral, scholastic, occupational and recreational natures and as to their wardship, care, health, treatment, conduct and discipline and shall make such reports to the Minister as he may require together with any recommendations it deems advisable. Inspection of training schools.

(6) The Board may designate any home, institution or other place as a foster home. Designating foster home.

(7) The members of the Board shall serve without remuneration, provided that the Lieutenant-Governor in Council may fix a per diem allowance to be payable to each member for attendance at meetings of and inspections by the Board, and every member shall be entitled to his reasonable and necessary travelling expenses as certified by the chairman for attendance at meetings and inspections and in the transaction of the business of the Board. 1939, c. 51, s. 5. Allowance to members of Board.

6.—(1) Every training school shall be inspected by an inspector who shall have free access to all parts of its premises and to all its books and records, and in the case of a private training school the inspector shall also have authority to Inspection of schools.

inspect the books and records of the society maintaining the training school in so far as they relate to the training school.

Minister
may request
inspection
of training
school.

(2) The Minister may request any inspector or other officer or employee of any other department to conduct an inspection of any training school for any special purpose and for the purposes of the inspection, such inspector, officer or employee shall have the same powers as an inspector acting under subsection 1.

Reports of
inspections.

(3) The inspector and any other person who conducts an inspection under this section shall make such reports as the Minister may require. 1939, c. 51, s. 6.

Certain
children
under 16
may be
brought
before
judge.

7.—(1) Any person may bring before a judge any boy or girl apparently under the age of 16 years who,

- (a) is found begging or receiving alms or being in any street or public place for the purpose of begging or receiving alms;
- (b) is found wandering and has not any home or settled place of abode or proper guardianship;
- (c) is found destitute, either being an orphan or having a surviving parent who is undergoing imprisonment;
- (d) is an habitual truant and whose parent or teacher represents that he is unable to control the boy or girl;
- (e) is by reason of the neglect, drunkenness or other vices of his parents suffered to grow up without salutary parental control and education, or in circumstances exposing him to lead an idle and dissolute life;
- (f) has been accused or found guilty of petty crime; or
- (g) proves unmanageable or incorrigible.

Judge to
inquire into
truth of
facts
charged.

(2) No formal information shall be requisite, but the judge shall have the boy or girl brought before him and shall in the presence of the boy or girl take evidence in writing under oath of the facts charged, and shall make reasonable inquiry into the truth thereof.

Hearing in
private.

(3) The judge shall hear all cases coming before him under this section *in camera*.

Judge may
order child
to school.

(4) If the judge is satisfied on inquiry that it is expedient to deal with the boy or girl under this Act, he shall make his order in writing that the boy or girl be sent to a training school.

(5) Any order made under this Act shall be subject to an appeal to the Court of Appeal and such appeal may be at the instance of any next friend. 1939, c. 51, s. 7.

8. Where under any Act or law in force in Ontario any person is convicted of an offence punishable by imprisonment and the judge before whom he is convicted is of opinion that the person is under the age of 16 years, the judge may direct him to be sent to a training school. 1939, c. 51, s. 8.

9. The judge shall forward a copy of the evidence taken before him to the superintendent of the training school to which the boy or girl is sent and a copy to the Board, provided that where the evidence is unusually long he may send copies of a statement containing all facts relating to the boy or girl in lieu thereof. 1939, c. 51, s. 9.

10. The Minister may, at any time, order that a boy or girl,

- (a) who has been made a ward of a children's aid society under *The Children's Protection Act* or any other boy or girl one of whose parents or guardians consents thereto, unless there is no parent or guardian, and who in the opinion of the Minister is in need of the training and discipline offered by a training school shall be admitted to a training school;
- (b) be transferred from one training school to another or to any foster home; or
- (c) be discharged from a training school either absolutely or on such conditions as he may think fit,

and every such boy or girl shall be admitted, transferred or discharged accordingly. 1939, c. 51, s. 10.

11. As far as practicable, a Roman Catholic boy or girl shall be sent to a training school maintained by a Roman Catholic society and a boy or girl of any other religious persuasion shall be sent to an Ontario training school or a private training school other than one maintained by a Roman Catholic society. 1939, c. 51, s. 11.

12. A clergyman of the religious persuasion to which a boy or girl appears to belong may visit the boy or girl at the school for the purpose of instructing him in religion on such days and at such times as may be fixed by the regulations. 1939, c. 51, s. 12.

13.—(1) Every boy or girl sent to a training school shall where practicable be taken to the school by an agent or

member of a children's aid society, and the actual expense incurred in so doing shall be borne by the municipality liable for maintenance.

Expenses
in a provi-
sional
judicial
district.

(2) The expenses of conveying any boy or girl to a training school from any part of a provisional judicial district not included in a city or separated town or in a town or township having a population of 5,000 or over, shall be payable out of any money appropriated for the administration of justice in provisional judicial districts. 1939, c. 51, s. 13.

School to be
designated
in order.

14.—(1) The judge or Minister in his order sending or admitting a boy or girl to a training school shall designate the school to which the boy or girl is to be sent and the person in whose custody he or she is to be conveyed to the school, and shall where practicable state the name, age and parentage of the boy or girl, as well as the religious persuasion and the jurisdiction liable for maintenance.

When order
to be
binding.

(2) A copy of the order shall be forwarded by registered post to the clerk of the municipality declared liable for maintenance and unless within one month of the mailing thereof the corporation of such municipality applies to the Minister, in cases where the order was made by the Minister, and in other cases to the judge making the order, or to the judge of the division court of the division in which the parent, step-parent or guardian of the boy or girl resides, to vary such order by having some other municipality declared liable for the maintenance of the boy or girl, the corporation shall, subject to sections 17 and 18, be estopped from denying liability thereunder. 1939, c. 51, s. 14.

Liability of
municipi-
pality.

15.—(1) Subject as in this Act may otherwise be provided, when a boy or girl is sent or admitted to a training school, the municipality to which the boy or girl belongs shall be liable to the Department in the case of an Ontario training school and to the society operating the training school in the case of a private training school, for and shall pay the sum of 75 cents per day towards the cost of maintenance and education of the boy or girl for each actual day's stay of the boy or girl in the training school. 1939, c. 51, s. 15 (1); 1948, c. 94, s. 1.

Where boy
or girl
belongs.

(2) For the purposes of this section, a boy or girl shall be deemed to belong to the municipality in which he or she has last resided for the period of one year, but in the absence of evidence to the contrary, residence for one year in the municipality in which he or she was taken into custody shall be presumed.

(3) Where the boy or girl has not resided in any municipality in Ontario for one year, the municipality in which his or her mother has last resided for one year shall be deemed liable for maintenance. Where mother's residence taken.

(4) In the computation of the time in subsections 2 and 3, the time during which the boy or girl, or his or her mother, was an inmate of a children's, infants', maternity or other boarding home, a correctional or charitable institution, a hospital or any home or institution for custodial, medical or other care or supervision shall not be regarded, and the time during which the mother has resided in a municipality while her child was an inmate of any such home or institution shall likewise be disregarded. Periods to be excluded in fixing time.

(5) In all other cases, the judge shall determine the municipality to which the boy or girl belongs. 1939, c. 51, s. 15 (2-5). Other cases.

16. When the charges for any boy or girl in a training school are payable by a municipality, the superintendent shall from time to time render to the clerk of the municipality statements of account of any such charges with full particulars thereof and if any such account is not paid within a reasonable time after it has been rendered, it may be recovered as a debt in any court of competent jurisdiction. 1939, c. 51, s. 16. Statements of account to be rendered.

17. Upon payment by a municipality of any charges under this Act by reason of a boy or girl having been assumed to be a resident in such municipality and it being ascertained that he or she was not a resident therein but at the time of admission to a training school was a resident in another municipality in Ontario, the municipality which made the payment may recover the amount thereof as a debt from the municipality in which he or she was a resident and upon payment by that municipality it shall be entitled to exercise the rights of recovery conferred under section 18. 1939, c. 51, s. 17. Municipal right of recourse against proper municipality.

18. Upon payment by a municipality of any account rendered to it under this Act, it may recover from any person liable in law in respect to the boy or girl, the amount of the payment so made, and such amount may be recovered as a debt in any court of competent jurisdiction. 1939, c. 51, s. 18. Municipal right of recourse.

19. The corporation of a county shall have the right to recover not exceeding one-half of the charges paid by it in respect of any boy or girl for which it is liable under this Act from the corporation of the township, town or village forming a part of the county, in which he or she was a resident at the time of admission to a training school. 1939, c. 51, s. 19. County's right to contribution.

Contribution from Province to private schools.

20.—(1) The sum of 75 cents per day and in the case of a boy or girl belonging to a part of a provisional judicial district not within a city or separated town or a town or township having a population of 5,000 or over the sum of \$1.50 per day for each day's actual stay of a boy or girl in a private training school shall be paid quarterly by the Treasurer of Ontario to the society maintaining the training school out of any moneys appropriated for that purpose. 1939, c. 51, s. 20 (1); 1948, c. 94, s. 2.

How amount to be calculated.

(2) In calculating the amount of aid to be so given, the day of departure of the boy or girl from the training school shall be included.

How grant to be payable.

(3) The money payable under this section shall be paid by the Treasurer upon the report of an inspector approved by the Minister. 1939, c. 51, s. 20 (2, 3).

School wardship over boys and girls.

21.—(1) Every boy or girl sent or admitted to a training school shall upon admission become a ward of the training school until he or she attains the age of 18 years and, subject to the regulations, shall be subject to the control of the Board and superintendent in the same manner and to the same extent as in the case of a guardian appointed by statute or by any court or by any will or instrument and all rights and powers of the parent or any such guardian over a boy or girl so admitted shall upon admission cease and determine unless the Minister provides that the wardship of the training school shall cease upon the boy or girl leaving the school or at any time after leaving the school. 1939, c. 51, s. 21 (1); 1949, c. 107, s. 1.

Restoration of other wardship.

(2) When the Minister provides that the wardship of the training school shall cease, the boy or girl shall thereupon become a ward of that person who but for the wardship of the training school was or would have been in law his or her guardian.

Supervision after leaving school.

(3) The Board shall exercise and maintain supervision over every boy and girl sent or admitted to a training school after the boy or girl leaves the training school and until the termination of the wardship of the training school, and shall keep such records and provide for such visits as may be prescribed by the regulations. 1939, c. 51, s. 21 (2, 3).

Placing out of boys and girls.

22. The Board and superintendent with the approval of the Minister, may permit any boy or girl upon leaving a training school, to live at a foster home or at the dwelling of any trustworthy and respectable person, and the control of the Board and superintendent shall not thereby be abated or diminished, and the municipality in which such boy or girl

was resident at the time of admission to the training school shall be liable in the same manner and amount as provided in section 15 for each actual day's stay of the boy or girl in the foster home or other dwelling. 1939, c. 51, s. 22.

23.—(1) If a boy or girl sent to a training school escapes therefrom or neglects to attend thereat he may, at any time before the determination of wardship, be apprehended without warrant, and may be brought back to the training school. Apprehension on escape.

(2) If the boy or girl leaves the foster home or dwelling without the permission of the Board, or refuses to return to the training school, he shall be deemed to have escaped from the training school. 1939, c. 51, s. 23. What to be deemed an "escape".

24. Every person,

Penalties.

- (a) who aids or abets any boy or girl to escape from or unlawfully leave a training school or foster home;
- (b) who knowingly harbours or conceals a boy or girl who has escaped from or unlawfully left a training school or foster home without giving notice of the child's whereabouts to the training school or to the local police authorities;
- (c) who knowingly makes, or procures to be made, any false statement in any return required under this Act; or
- (d) who contravenes any of the provisions of this Act or the regulations,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 or to imprisonment for a term of not more than three months or to both. 1939, c. 51, s. 24; 1941, c. 55, s. 40.

25. The officers of a society maintaining a private training school may, subject to the regulations and the approval of the Minister, make such rules as they may deem necessary. Rules governing private training schools.

- (a) for the appointment of the superintendent and other officers and employees;
- (b) for the management and discipline of the training school; and
- (c) for the more efficient operation of the training school. 1939, c. 51, s. 25.

26. Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations. Regulations.

(a) in regard to Ontario training schools,

- (i) providing for the appointment and remuneration of superintendents and such officers and employees as he may deem necessary,
- (ii) providing for the use in a training school of such products and articles as may be produced on the premises thereof and for the sale of any surplus products or articles that may be produced or manufactured on the premises;

(b) in regard to all training schools,

- (i) prescribing the powers and duties of the board,
- (ii) prescribing the powers and duties of superintendents including the control which they may exercise over boys and girls,
- (iii) fixing the age at which and conditions under which boys and girls may be admitted to training schools, the period during which they may be kept at training schools and the conditions under which they may leave or be discharged therefrom,
- (iv) prescribing the type of mental, moral, physical and vocational education, training and employment to be provided and setting standards of instruction,
- (v) regulating the conduct and discipline of boys and girls in training schools,
- (vi) prescribing the records, books, account systems, audits, reports and returns to be kept and made by or pertaining to training schools,
- (vii) regarding the management, discipline, government and control of training schools and the maintenance of the buildings, premises and equipment thereof,
- (viii) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1939, c. 51, s. 26.

CHAPTER 397

The Transportation of Fowl Act

1. In this Act, "fowl" means live fowl and dressed or undressed poultry. R.S.O. 1937, c. 336, s. 1. Interpretation.

2.—(1) Subject to subsection 2 this Act shall not apply to, Non-application of Act.

(a) a *bona fide* producer or breeder of fowl;

(b) a *bona fide* purchaser for his own use or a donee of 12 fowl or less;

(c) a person licensed under *The Public Commercial Vehicles Act*. Rev. Stat., c. 304.

(2) In a prosecution for a contravention of this Act the onus shall be on the person charged to prove that he comes within the provisions of clause *a* or *b* of subsection 1. R.S.O. 1937, c. 336, s. 2. Onus of proof.

3.—(1) No person shall carry or transport fowl on any highway in Ontario unless he holds a permit for that purpose granted by the clerk of the county in which he resides or carries on business, and where he does not reside or carry on business in any county in Ontario unless he holds such a permit granted by the clerk of that county in Ontario nearest to his place of residence or business. Permit required for transportation of fowl.

(2) In unorganized territory a permit required under this Act shall be granted by the clerk of the municipality in which the person requiring the permit resides or carries on business or where he resides or carries on business in territory without municipal organization he may obtain the necessary permit from the clerk of the municipality nearest to his place of residence or business. R.S.O. 1937, c. 336, s. 3. In unorganized territory.

4.—(1) The clerk may grant such permits without the passing of any by-law for that purpose by the council and may revoke any permit granted and shall have the same discretion as to the granting or refusing to grant or the revoking of permits as the council has with reference to licences under *The Municipal Act*. Clerk to issue permits. Rev. Stat., c. 243.

Fee.

(2) The fee for the permit shall be \$1 and shall belong to the county or municipality as the case may be. R.S.O. 1937, c. 336, s. 4.

Contents of permit.

5. The permit shall contain the name of the person to whom it is granted, the address of his residence or place of business, and set out that the holder is authorized to transport fowl on the highways in Ontario and shall remain in force for the calendar year in which it is issued. R.S.O. 1937, c. 336, s. 5.

Record by clerk.

6. The clerk of the council shall keep a record of all permits issued which shall be open to inspection by any constable or peace officer. R.S.O. 1937, c. 336, s. 6.

Permit and book for entry as to fowl to be carried.

7. The holder of a permit shall carry with him at all times when he is transporting fowl his permit and a book in which he shall enter at the time he receives them the number and kind of fowl and the name and address of the person from whom he received them, and to whom he is to deliver them, and in case of a purchase the price paid, and, whether or not he is transporting fowl, he shall produce the permit and the book when required by a constable or peace officer. R.S.O. 1937, c. 336, s. 7; 1944, c. 65, s. 1.

Inspection of premises of permit holder.

8. Any constable or peace officer may inspect the premises of the holder of a permit and any vehicle in his possession and no person shall obstruct or interfere with such constable or peace officer when making such inspection. R.S.O. 1937, c. 336, s. 8.

Right of constable to stop person on highway for purposes of Act.

9. Any constable or peace officer may order any person on the highway to stop for the purpose of ascertaining by search if he thinks it necessary, whether such person is carrying or transporting fowl, and, if he is, of requiring him to produce his permit, and, if he has not a permit, to give his name and address and the name and address of the person from whom the fowl were obtained, and no person shall fail to stop when ordered or refuse to give the information required or obstruct or interfere with the constable or peace officer in the performance of his duty under this section. R.S.O. 1937, c. 336, s. 9.

Penalties.

10. Every person who contravenes any of the provisions of this Act shall be guilty of an offence and liable to a penalty of not more than \$50 for the first offence, and not less than \$50 and not more than \$100 or to imprisonment for a term of not more than six months or to both such penalty and imprisonment for the second or any subsequent offence. R.S.O. 1937, c. 336, s. 10.

11. The penalties imposed by this Act shall be recoverable under *The Summary Convictions Act*, except that an information may be laid within 12 months after the offence was committed. R.S.O. 1937, c. 336, s. 11.

Recovery of penalties.
Rev. Stat.,
c. 379.

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CHAPTER 398

The Travelling Shows Act

1. No menagerie, circus, wild west show, travelling carnival show, trained animal show or show of any kind whatsoever shall be exhibited at any place in Ontario unless the owner, proprietor, manager, agent or person in charge of the show first obtains a licence for that purpose from the Treasurer of Ontario. R.S.O. 1937, c. 293, s. 1.

Circuses,
etc., not to
be exhibited
without a
licence.

2.—(1) Every applicant for a licence shall make and file in the office of the Treasurer of Ontario a statutory declaration setting forth the number of days upon which the show is to be exhibited in Ontario and the localities in which the performances or exhibitions are to be held, and for the licence shall pay in advance to the Treasurer such sum as may be fixed by the Lieutenant-Governor in Council.

Licence
fee.

(2) Where the Treasurer is satisfied that owing to unforeseen circumstances a performance or exhibition has not been held on any day for which the licence fee has been paid, he may direct the repayment to the licensee out of the Consolidated Revenue Fund of a proportionate part of the licence fee so paid in advance. R.S.O. 1937, c. 293, s. 2.

Refund of
licence fee
where per-
formance
not given.

3. If any such show is exhibited as part of an industrial exhibition or agricultural fair the applicant shall pay such licence fee as the Treasurer of Ontario may impose, but not in excess of the fees fixed under section 2 for the particular class of show, and the Treasurer may have regard to any special circumstances of the case and may if he deems it advisable impose a nominal fee. R.S.O. 1937, c. 293, s. 3.

Licence fee
for certain
shows to be
fixed by
Treasurer.

4.—(1) Upon receiving the statutory declaration and upon payment of the licence fee the Treasurer of Ontario may, in his discretion, issue a licence and may at any time revoke it upon being satisfied that the show is made the occasion for violation of the law or that gambling or any game of chance has been carried on in connection therewith.

Power to
issue and
revoke
licence.

(2) In case of the revocation of a licence the amount received for it shall be refunded to the licensee, less the sum paid per day for every day during which exhibitions have been given under the licence prior to the revocation thereof. R.S.O. 1937, c. 293, s. 4.

Refund on
revocation.

Penalty for
unlicensed
exhibitions.

5. Any person in charge of a show, or the owner, proprietor, manager or person having control thereof, who exhibits the show or any part thereof without obtaining a licence shall be guilty of an offence and liable to a penalty of not less than \$200 and not more than \$300 for every day upon which the show or any part thereof has been exhibited at any place in Ontario. R.S.O. 1937, c. 293, s. 5.

Licence,
when
municipal
corporation
to issue.

6. No municipal corporation shall issue a licence to any show to which section 1 applies until the applicant produces a licence from the Treasurer of Ontario authorizing the exhibition in the municipality, and any member or officer of a municipal corporation who is a party to the issue of a licence in violation of the provisions of this section shall be guilty of an offence and liable to a penalty of \$20. R.S.O. 1937, c. 293, s. 6.

Provincial
and
Dominion
police to
have free
access to
shows.

7. The members of the Ontario Provincial Police Force and the members of the Dominion Police Force shall have access free of all charge to all shows mentioned in section 1, and to every horse race, agricultural, horticultural or industrial exhibition, ball game, theatre or public gathering, and to the grounds, tents and buildings in which such shows, races, exhibitions and gatherings are held, during the hours in which the public are admitted thereto, and any person hindering, preventing or refusing such free access after any such officer has demanded admission and displayed his badge of office shall be guilty of an offence and liable to a penalty of not less than \$50 and not more than \$100, or in the discretion of the convicting magistrate may be imprisoned for a term of not more than three months. R.S.O. 1937, c. 293, s. 7.

Penalty.

Prosecu-
tions.
Rev. Stat.,
c. 379.

8. The penalties imposed by this Act shall be recovered under *The Summary Convictions Act*, but any prosecution for an offence under this Act may be commenced at any time within 12 months after the committing of the offence. R.S.O. 1937, c. 293, s. 8.

Fees and
penalties to
be paid to
Treasurer.

9. All penalties recovered under this Act, and all fees paid for licences under this Act, shall be paid over to the Treasurer of Ontario for the use of the Province. R.S.O. 1937, c. 293, s. 9.

Licence fees
to be in
addition to
fees of
municipal-
ities.

10. The licence fees payable under this Act shall be in addition to any fees imposed by municipalities. R.S.O. 1937, c. 293, s. 10.

Certain
agreements
declared
invalid.

11. Any contract or agreement whereby any person undertakes to procure a licence under this Act for the owner, proprietor, manager, agent or person in charge of a menagerie, circus, wild west show, carnival company, trained animal

show or show of any kind whatsoever, to which this Act applies, or to provide for payment of or to pay for the licence or to indemnify the owner, proprietor, manager, agent or person in charge of such show, against payment for the licence as a condition of the exhibiting of any such show or of any performance thereof or which relieves or purports to relieve the owner, proprietor, manager, agent or person in charge from any liability or responsibility with respect to the licence shall be unlawful and shall be null and void. R.S.O. 1937, c. 293, s. 11.

12. It shall be a good defence to any action brought by the owner, proprietor, manager, or other person in charge of the show in respect to any exhibition or performance or intended or proposed exhibition or performance or in respect to any matter arising out of the same that the owner, proprietor, agent or other person has with respect to such exhibition or performance or intended or proposed exhibition or performance entered into a contract declared by section 11 to be unlawful. R.S.O. 1937, c. 293, s. 12.

Defence
to action
brought
when
unlawful
contract
made.

100

101

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CHAPTER 399

The Trees Act

TREES ON BOUNDARY LINES

1. An owner of land may with the consent of the owner of adjoining land, plant trees on the boundary between such lands, and every tree so planted shall be the common property of the owners. R.S.O. 1937, c. 292, s. 1. Trees on boundary lines.

2. Every person who ties or fastens any animal to or injures or destroys any tree growing for the purposes of shade or ornament upon a boundary line between lands, or who suffers or permits any animal in his charge to injure or destroy or who trims, cuts down or removes any such tree without the consent of the owners thereof, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25. R.S.O. 1937, c. 292, s. 2. Penalty for injuring trees.

TREES CONSERVATION

3. Subject to the approval of the Minister of Lands and Forests, the council of a county, and in a territorial district the council of a township, may pass by-laws, By-law restricting cutting of trees.

- (a) restricting and regulating the cutting of trees in any part of the county or township; and
- (b) providing for the appointment of officers to enforce the provisions of any by-law passed under this section. 1946, c. 102, s. 1.

4. A by-law passed under section 3 shall not, Exceptions.

- (a) interfere with the right of a person who has been the registered owner of land for at least two years to cut trees thereon for his own use;
- (b) interfere with any rights or powers conferred upon a municipality by *The Municipal Act*;
- (c) interfere with any rights or powers of The Hydro-Electric Power Commission of Ontario or of any other board or commission which is performing its functions for or on behalf of the Government of Ontario;

Rev. Stat.,
c. 243.

- (d) apply to trees growing upon any highway or upon any opened road allowance; or
- (e) apply to trees growing in a woodlot having an area not exceeding two acres. 1946, c. 102, s. 2; 1947, c. 101, s. 18.

Penalty.

5. Every person who violates the provisions of any by-law passed pursuant to section 3 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500 or to imprisonment for a term of not more than three months. 1946, c. 102, ss. 3, 4.

MUNICIPAL REFORESTATION

County
by-laws for
acquiring
lands for
reforestation
purposes.

6. The council of any county may pass by-laws,

- (a) for acquiring by purchase, lease or otherwise such land designated in the by-law as the council may deem suitable for reforestation purposes;
- (b) for planting land so acquired and for preserving and protecting the timber thereon;
- (c) for the management of such land and the sale or other disposal of the timber grown thereon;
- (d) for the issuing of debentures from time to time for the purpose of providing for the purchase of such land to an amount not exceeding \$25,000 to be owing at any one time;
- (e) for entering into agreements for developing, protecting, caring for and managing such land or any portion thereof;
- (f) for leasing, selling or otherwise disposing of such land or any portion thereof. R.S.O. 1937, c. 323, s. 1.

Powers of
township
councils.

7.—(1) The council of any township shall have all the powers, privileges and authority conferred by clauses *a*, *b*, *c*, *e* and *f* of section 6 on the council of a county. R.S.O. 1937, c. 323, s. 3 (1); 1945, c. 14, s. 2; 1946, c. 62, s. 1 (1).

Idem.

(2) The council of any township shall have power and authority to levy by special rate a sum not exceeding \$1,000 in any year for the purpose of providing for the purchase of such land. R.S.O. 1937, c. 323, s. 3 (2); 1946, c. 62, s. 1 (2).

Agreements
as to re-
forestation
areas.

8.—(1) The council of any township may enter into agreements with the owners of lands located in the township providing for,

- (a) the reforestation of portions of such lands;
- (b) the entry and planting of trees upon such portions by the servants or agents of the council; and
- (c) the fencing of such portions and conservation of all growing trees thereon by the owner.

(2) No such agreement shall provide for the reforestation ^{Acreage.} of less than five acres of land for every one hundred acres belonging to the same owner.

(3) Every such agreement shall prescribe the conditions ^{Cutting.} under which the cutting of timber upon such portions may be carried out and such conditions shall be subject to the approval of the Minister of Lands and Forests.

(4) The council of the township may exempt any such ^{Exemption from} portion from general taxation as long as it continues to be ^{taxation.} used for the purposes set out in the agreement.

(5) The council of the township may enter into agreements ^{Agreements with} with the Minister of Labour for Canada and the Minister of ^{Ministers of} Labour for Ontario regulating the conditions of labour and ^{labour.} the payment of wages in respect of labour performed in connection with the planting and conservation of trees in such portions. 1939, c. 11, s. 1.

9. No by-law shall be finally passed under section 6, 7 or 8 ^{Approval of by-law} until approved in writing by the Minister of Lands and ^{by Minister.} Forests. R.S.O. 1937, c. 323, s. 2.

THE UNIVERSITY OF CHICAGO

CHAPTER 400

The Trustee Act**1. In this Act,****Interpre-
tation.**

- (a) “assign” means the execution and performance by a person of every necessary or suitable deed or act for assigning, surrendering, or otherwise transferring land of which such person is possessed, either for the whole estate of the person so possessed or for any less estate, and “assignment” has a corresponding meaning;
- (b) “contingent right” as applied to land includes a contingent and executory interest, and a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility is or is not ascertained, and also a right of entry whether immediate or future, vested or contingent;
- (c) “convey” applied to a person means the execution and delivery by such person of every necessary or suitable assurance for conveying or disposing to another land whereof such person is seized, or wherein he is entitled to a contingent right, either for his whole estate or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, and “conveyance” has a corresponding meaning;
- (d) “devisee” includes the heir of a devisee, and the devisee of an heir, and any person who may claim right by devolution of title of a similar description, Imp. Act, 56-57 Vict., c. 53, s. 50, part.
- (e) “instrument” includes a deed, a will and a written document and an Act of the Legislature, but not a judgment or order of a court;
- (f) “land” includes messuages, and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties, or any of them, and any estate of inheritance, or estate for any life or lives, or other estate trans-

missible to heirs, and any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency;

- (g) "mental incompetent" or "mentally incompetent person" means any person who has been declared a mentally incompetent person;
- (h) "mortgage" is applicable to every estate, interest or property, in land or personal estate, which is merely a security for money, and "mortgagee" has a corresponding meaning and includes every person deriving title under the original mortgage;
- (i) "person of unsound mind" means any person, not an infant, who, not having been declared a mentally incompetent person, is incapable, from infirmity of mind, to manage his own affairs;
- (j) "personal estate" includes leasehold estates and other chattels real, and also money, shares of Government and other funds, securities for money (not being real estate), debts, choses in action, rights, credits, goods, and all other property, except real estate, which by law devolves upon the executor or administrator, and any share or interest therein;
- (k) "personal representative" means an executor, an administrator, and an administrator with the will annexed;
- (l) "possessed" is applicable to any vested estate less than a life estate, legal or equitable, in possession or in expectancy, in any land;
- (m) "securities" includes stocks, funds and shares;
- (n) "seized" is applicable to any vested interest for life, or of a greater description, and extends to estates, legal and equitable, in possession, or in futurity, in any land;
- (o) "stock" includes fully paid-up shares, and any fund, annuity, or security transferable in books kept by any incorporated bank, company or society, or by instrument of transfer, either alone or accompanied by other formalities, and any share or interest therein;
- (p) "transfer", in relation to stock, includes the performance and execution of every deed, power of attorney,

Imp. Acts,
13-14 Vict.,
c. 60, s. 2;
56-57 Vict.,
c. 53, s. 50.

act or thing, on the part of the transferor to effect and complete the title in the transferee;

- (q) "trust" does not mean the duties incident to an estate conveyed by way of mortgage; but, with this exception, includes implied and constructive trusts and cases where the trustee has some beneficial estate or interest in the subject of the trust, and extends to and includes the duties incident to the office of personal representative of a deceased person, and "trustee" has a corresponding meaning and includes a trustee however appointed and several joint trustees;
- (r) "will" includes a testament, and a codicil, and an appointment by will, or by writing in the nature of a will in exercise of a power, and also a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of *The Infants Act*, and any other testamentary disposition. Rev. Stat., c. 180. R.S.O. 1937, c. 165, s. 1.

RETIREMENT OF TRUSTEES

2.—(1) Where there are more than two trustees, if one of them by deed declares that he desires to be discharged from the trust, and if his co-trustees and such other person, if any, as is empowered to appoint trustees, consent by deed to the discharge of the trustee, and to the vesting in the co-trustees alone of the trust property, then the trustee who desires to be discharged shall be deemed to have retired from the trust, and shall, by the deed, be discharged therefrom under this Act without any new trustee being appointed in his place.

(2) This section shall not apply to executors or administrators. Application of section. R.S.O. 1937, c. 165, s. 2.

APPOINTMENT OF NEW TRUSTEES

3.—(1) Where a trustee dies or remains out of Ontario for more than 12 months, or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him, or refuses or is unfit to act therein, or is incapable of acting therein, or has been convicted of an indictable offence or is bankrupt or insolvent, the person nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust, or if there is no such person, or no such person able and willing to act, the surviving or continuing trustees or trustee for the time being, or the personal representatives of the last surviving or continuing trustee, may by writing appoint another person or other persons (whether or not being

Retirement of trustees. Imp. Act, 56-57 Vict., c. 53, s. 11.

Application of section.

Power of appointing new trustees. Imp. Act, 56-57 Vict., c. 53, s. 10 (1).

the persons exercising the power) to be a trustee or trustees in the place of the trustee dying, remaining out of Ontario, desiring to be discharged, refusing or being unfit or incapable. R.S.O. 1937, c. 165, s. 3.

Survivorship.

(2) Until the appointment of new trustees, the personal representatives or representative for the time being of a sole trustee, or where there were two or more trustees, of the last surviving or continuing trustee, shall be capable of exercising or performing any power or trust which was given to or capable of being exercised by the sole or last surviving trustee. 1938, c. 44, s. 2.

Authority of surviving trustee to appoint successor by will.

4. Subject to the terms of any instrument creating a trust, the sole trustee or the last surviving or continuing trustee appointed for the administration of the trust may appoint by will another person or other persons to be a trustee or trustees in the place of the sole or surviving or continuing trustee after his death. R.S.O. 1937, c. 165, s. 4.

Power of court to appoint new trustees.
Imp. Act, 56-57 Vict., c. 53, s. 25.

5.—(1) The Supreme Court may make an order for the appointment of a new trustee or new trustees, either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee.

Limitation of effect of order.

(2) An order under this section and any consequential vesting order or conveyance shall not operate as a discharge from liability for the acts or omissions of the former or continuing trustees. R.S.O. 1937, c. 165, s. 5.

What may be done,
Imp. Act, 56-57 Vict., c. 53, s. 10 (2).

6. On the appointment of a new trustee for the whole or any part of trust property,

increase in number;

(a) the number of trustees may be increased; and

separate trustees for distinct trusts;

(b) a separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property, notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property, and any existing trustee may be appointed or remain one of such separate set of trustees; or, if only one trustee was originally appointed, then one separate trustee may be so appointed for the first-mentioned part; and

where not less than two to be appointed;

(c) it shall not be obligatory to appoint more than one new trustee where only one trustee was originally appointed or to fill up the original number of trustees where more than two trustees were originally appointed; but, except where only one trustee was

originally appointed, a trustee shall not be discharged under section 3 from his trust unless there will be a trust company or at least two individuals as trustees to perform the trust; and

- (d) any assurance or thing requisite for vesting the trust property, or any part thereof, in the person who is the trustee, or jointly in the persons who are the trustees, shall be executed or done. R.S.O. 1937, c. 165, s. 6; 1941, c. 55, s. 41; 1949, c. 95, s. 15.

execution and performance of requisite deeds and acts.

7. Every new trustee so appointed, as well before as after all the trust property becomes by law or by assurance or otherwise vested in him, shall have the same powers, authorities and discretions, and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust. R.S.O. 1937, c. 165, s. 7.

Powers of new trustee.

8. The provisions of this Act relative to the appointment of new trustees shall apply to the case of a person nominated trustee in a will but dying before the testator. R.S.O. 1937, c. 165, s. 8.

Application of Act.

VESTING INSTRUMENTS

9.—(1) Where an instrument, executed after the 1st day of July, 1886, by which a new trustee is appointed to perform any trust, contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust, or in any personal estate so subject, shall vest in the person or persons who, by virtue of such instrument, shall become and be the trustee or trustees for performing the trust, that declaration shall, without any conveyance or assignment, operate to vest in him, or in them as joint tenants, and for the purposes of the trust, that estate, interest or right.

Vesting of trust property in new or continuing trustees without conveyance.

Imp. Act. 56-57 Vict., c. 53, s. 12.

(2) Where such an instrument, by which a retiring trustee is discharged under this Act, contains such a declaration as is in this section mentioned by the retiring and continuing trustees, and by the other person, if any, empowered to appoint trustees, that declaration shall, without any conveyance or assignment, operate to vest in the continuing trustees alone as joint tenants, and for the purposes of the trust, the estate, interest or right to which the declaration relates.

On retirement of a trustee.

(3) This section shall not extend to land conveyed by way of mortgage for securing money subject to the trust, or to any share, stock, annuity, or property transferable only in books kept by a company or other body, or in manner prescribed by or under an Act of the Parliament of Canada or of the Legislature.

Application to mortgages, stocks shares, etc.

Interpretation for registration purposes.

Imp. Act, 56-57 Vict., c. 53, s. 26.

(4) For the purpose of registration the person or persons making the declaration shall be deemed the conveying party or parties, and the conveyance shall be deemed to be made by him or them under a power conferred by this Act. R.S.O. 1937, c. 165, s. 9.

VESTING ORDERS, ORDERS RELEASING CONTINGENT RIGHTS, ETC.

Vesting orders.

10.—(1) In any of the following cases:

- (a) where the Supreme Court appoints or has appointed a new trustee; or
- (b) where a trustee entitled to or possessed of any land, or entitled to a contingent right therein, either solely or jointly with any other person is an infant, or is out of Ontario, or cannot be found; or
- (c) where it is uncertain who was the survivor of two or more trustees jointly entitled to or possessed of any land; or
- (d) where it is uncertain whether the last trustee known to have been entitled to or possessed of any land is living or dead; or
- (e) where there is no heir or personal representative of a trustee who was entitled to or possessed of land and has died intestate as to that land, or where it is uncertain who is the heir or personal representative or devisee of a trustee who was entitled to or possessed of land and is dead; or
- (f) where a trustee jointly or solely entitled to or possessed of any land, or entitled to a contingent right therein, has been required by or on behalf of a person entitled to require a conveyance of the land or a release of the right, to convey the land or to release the right, and has wilfully refused or neglected to convey the land or release the right for 14 days after the date of the requirement,

the Supreme Court may make an order, vesting the land in any such person in any such manner, and for any such estate, as the court may direct, or releasing, or disposing of the contingent right to such person as the court may direct.

Vesting of estate.

(2) Where the order is consequential on the appointment of a new trustee the land shall be vested for such estate as the court may direct in the persons who, on the appointment, are the trustees.

(3) Where the order relates to a trustee entitled jointly with another person, and such trustee is out of Ontario or cannot be found, the land or right shall be vested in such other person, either alone or with some other person. R.S.O. 1937, c. 165, s. 10.

11. Where any land is subject to a contingent right in an unborn person, or a class of unborn persons, who, on coming into existence, would, in respect thereof, become entitled to or possessed of the land on any trust, the Supreme Court may make an order releasing the land from the contingent right, or may make an order vesting in any person the estate to or of which the unborn person, or class of unborn persons, would, on coming into existence, be entitled or possessed in the land. R.S.O. 1937, c. 165, s. 11.

12. Where any person entitled to or possessed of land, or entitled to any contingent right in land, by way of security for money, is an infant, the Supreme Court may make an order vesting or releasing or disposing of the land or right in like manner as in the case of an infant trustee. R.S.O. 1937, c. 165, s. 12.

13.—(1) In any of the following cases:

(a) where the Supreme Court appoints, or has appointed, a new trustee; or

(b) where a trustee entitled alone, or jointly with another person, to stock or to a chose in action,

(i) is an infant, or

(ii) is out of Ontario, or

(iii) cannot be found, or

(iv) neglects or refuses to transfer stock, or receive the dividends or income thereof, or to sue for or recover a chose in action, according to the direction of the person absolutely entitled thereto, for 14 days next after a request in writing has been made to him by the person so entitled, or

(v) neglects or refuses to transfer stock, or receive the dividends or income thereof, or to sue for or recover a chose in action for 14 days next after an order of the Supreme Court for that purpose has been served on him; or

(c) where it is uncertain whether a trustee entitled alone, or jointly with another person, to stock or to a chose in action is alive or dead,

Where trustee out of Ontario.

Orders as to contingent rights of unborn persons.

Imp. Act, 56-57 Vict., c. 53, s. 27.

Vesting order in place of conveyance by infant mortgagee.

Imp. Act, 56-57 Vict., c. 53, s. 28.

Vesting orders as to stock and choses in action.

Imp. Act, 56-57 Vict., c. 53, s. 35.

the Supreme Court may make an order vesting the right to transfer, or call for a transfer of stock, or to receive the dividends or income thereof, or to sue for or recover a chose in action, in any such person as the court may appoint.

Vesting in
new
trustee.

(2) Where the order is consequential on the appointment by the court of a new trustee, the right shall be vested in the persons who, on the appointment, are the trustees.

Vesting
in person
having joint
interest.

(3) Where the person whose right is dealt with by the order was entitled jointly with another person, the right shall be vested in that last-mentioned person either alone, or jointly with any other person whom the court may appoint.

Appoint-
ment of
person to
transfer.

(4) Where a vesting order may be made under this section the court may, if it is more convenient, appoint some proper person to make, or join in making, the transfer.

Transfer,
how to be
made.

(5) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the court under this Act may transfer the stock to himself, or any other person, according to the order, and all incorporated banks and all companies shall obey every order made under this section.

After notice
of order, no
transfer to
be made
contrary
thereto.

(6) After notice in writing of an order under this section it shall not be lawful for any incorporated bank or any company to transfer any stock to which the order relates, or to pay any dividends thereon except in accordance with the order.

Court may
make
declaration.

(7) The Supreme Court may make declarations and give directions concerning the manner in which the right to any stock, or chose in action, vested under this Act, is to be exercised.

Ships,
shares in.

(8) The provisions of this Act as to vesting orders apply to shares in ships registered under the Acts relating to merchant shipping as if they were stock. R.S.O. 1937, c. 165, s. 13.

Imp. Act,
56-57 Vict.,
c. 53, s. 35.

TRUSTEES FOR CHARITIES

Exercise of
powers in
favour of
charities, etc.

14. The Supreme Court may exercise the powers herein conferred for the purpose of vesting any land or personal estate in the trustee of any charity or society over which the court would have jurisdiction upon action duly instituted. R.S.O. 1937, c. 165, s. 14.

Imp. Act,
56-57 Vict.,
c. 53, s. 39.

Power to
order a sale
in proper
cases.

15.—(1) Where land is held by trustees for a charitable purpose and it is made to appear that the land can be no longer advantageously used for such charitable purpose or that for any other reason the land ought to be sold, a judge of the Supreme Court may make an order authorizing the

sale thereof and may give such directions in relation thereto and for securing the due investment and application of the money arising from the sale as may be deemed proper.

(2) No such order shall be made unless and until notice of the application has been given to the Public Trustee. R.S.O. 1937, c. 165, s. 15. Notice to Public Trustee.

WHO MAY APPLY

16.—(1) An order under this Act for the appointment of a new trustee, or concerning any land or personal estate, subject to a trust, may be made upon the application of any person beneficially interested therein, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof. Who may apply for appointment of new trustee, or vesting order, etc.
Imp. Act, 13 and 14 Vict., c. 60, ss. 37, 40 and 41.

(2) An order concerning any land or personal estate, subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the moneys secured by the mortgage. R.S.O. 1937, c. 165, s. 16. In case of mortgaged property.

CERTAIN POWERS AND RIGHTS OF TRUSTEES

Purchase and Sale

17. Subject to *The Devolution of Estates Act* where a trust for sale or a power of sale of land or personal estate is vested in a trustee he may sell or concur with any other person in selling all or any part of the property, either subject to prior charges or not, and either together or in lots, by public auction or by private contract subject to such conditions respecting title or evidence of title or other matter as the trustee thinks fit, with power to vary any contract for sale, and to buy in at any auction, or to rescind any contract for sale and to re-sell, without being answerable for any loss. R.S.O. 1937, c. 165, s. 17. Power and discretion of trustee for sale.
Rev. Stat., c. 103.
Imp. Act, 56-57 Vict., c. 53, s. 13, part.

18.—(1) A sale made by a trustee shall not be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made were unnecessarily depreciatory, unless it also appears that the consideration for the sale was thereby rendered inadequate. Sales by trustees not impeachable on certain grounds.
Imp. Act, 56-57 Vict., c. 53, s. 14.

(2) Such sale shall not, after the execution of the conveyance, be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made were unnecessarily depreciatory, unless it appears that the Collusion between purchaser and trustee.

purchaser was acting in collusion with the trustee at the time when the contract for the sale was made. R.S.O. 1937, c. 165, s. 18.

Dedication or Sale for Highway Purposes

Dedication
or sale
of land
by trustee
for municipal
highway.

19. With the approval of the Ontario Municipal Board or of a judge of the Supreme Court, a person who holds land or a charge or claim against it or has control of the legal title, upon any trust or for a specified or particular purpose, may, to the extent of his estate or interest, dedicate or sell, or join in dedicating or selling, to the corporation of the municipality within which it is situate, any portion of the land required by the corporation for the work of establishing, extending, widening or diverting a street, and the Board or the judge may approve thereof if it appears that it will not have the effect of defeating or seriously affecting the substantial objects or intent of the trust or purpose; provided that the approval shall not be necessary if such dedication or sale is otherwise within such person's powers. R.S.O. 1937, c. 165, s. 19.

Agents

Power to
authorize
receipt of
money by
solicitor.

20.—(1) A trustee may appoint a solicitor to be his agent to receive and give a discharge for any money or valuable consideration or property receivable by the trustee under the trust.

By banker.
Imp. Act,
56-57 Vict.,
c. 53, s. 17.

(2) A trustee may appoint a manager or a branch manager of a chartered bank or a solicitor to be his agent to receive and give a discharge for any money payable to the trustee under or by virtue of a policy of assurance or otherwise.

Appoint-
ment not a
breach of
trust.

(3) A trustee shall not be charged with a breach of trust by reason only of his having made or concurred in making any such appointment.

Liability of
trustee, in
certain
cases, not
affected.

(4) Nothing in this section shall exempt a trustee from any liability which he would have incurred if this Act had not been passed, in case he permits any such money, valuable consideration, or property to remain in the hands or under the control of the banker or solicitor for a period longer than is reasonably necessary to enable the banker or solicitor to pay or transfer the same to the trustee. R.S.O. 1937, c. 165, s. 20.

Insurance

Power to
insure
buildings.

Imp. Act,
56-57 Vict.,
c. 53, s. 18.

21.—(1) A trustee may insure against loss or damage by fire, tempest or other casualty, any building or other insurable property to any amount, including the amount of any insurance already on foot, not exceeding three-fourths of the value of such building or property, and pay the premiums for such

insurance out of the income thereof or out of the income of any other property subject to the same trusts, without obtaining the consent of any person who may be entitled wholly or partly to such income.

(2) This section does not apply to any building or property Application. which a trustee is bound forthwith to convey absolutely to any beneficiary upon being requested to do so. R.S.O. 1937, c. 165, s. 21.

Renewals of Leases

22.—(1) A trustee of any leaseholds for lives or years Power of trustees of renewable leaseholds to renew; which are renewable from time to time may, if he thinks fit, and shall, if thereto required by any person having any beneficial interest, present or future or contingent, in the leaseholds, use his best endeavours to obtain from time to time a renewed lease of the same land on reasonable terms, and for that purpose may from time to time make or concur in making a surrender of the lease for the time being subsisting, and do Imp. Act, 56 - 57 Vict., c. 53, s. 19. all such other acts as are requisite; but where, by the terms of the settlement or will, the person in possession for his life or other limited interest is entitled to enjoy the same without any obligation to renew or to contribute to the expense of renewal, this section shall not apply unless the consent in writing of that person is obtained to the renewal on the part of the trustee.

(2) If money is required to pay for the renewal the trustee to raise money for the purpose. effecting the renewal may pay the same out of any money then in his hands in trust for the persons beneficially interested in the land to be comprised in the renewed lease, and if he has not in his hands sufficient money for the purpose he may raise the money required by mortgage of the land to be comprised in the renewed lease, or of any other land for the time being subject to the uses or trusts to which that land is subject, and no person advancing money upon a mortgage purporting to be made under this power shall be bound to see that the money is wanted, or that no more is raised than is wanted for the purpose or to see to the due application of the money. R.S.O. 1937, c. 165, s. 22.

Passing of Accounts

23.—(1) A trustee desiring to pass the accounts of his When trustee may file accounts. dealings with the trust estate may file his accounts in the office of the surrogate court of a county or district in which he or a co-trustee is resident or in which any part of the trust estate is situate, and the proceedings and practice upon the passing of such accounts shall be the same and have the like effect as the passing of executors' or administrators' accounts

in the surrogate court; but in the case of trustees under a will the accounts shall be filed and passed in the office of the surrogate court by which probate of the will was granted.

Fixing compensation of trustee.

(2) Where the compensation payable to a trustee has not been fixed by the instrument creating the trust or otherwise, the judge of the surrogate court upon the passing of the accounts of the trustee shall have power to fix the amount of compensation payable to the trustee and the trustee shall thereupon be entitled to retain out of any moneys in his hands the amount so determined. R.S.O. 1937, c. 165, s. 23.

Receipts

Receipts of trustees to be effectual discharges.

24. The payment of any money to and the receipt thereof by any person to whom the same is payable upon any trust, or for any limited purpose, and such payment to and receipt by the survivor or survivors of two or more mortgagees or holders or the executors or administrators of such survivor or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof. R.S.O. 1937, c. 165, s. 24.

Surviving Trustee

Powers of two or more trustees.

Imp. Act, 56-57, Vict., c. 53, s. 22.

25. Where a power or trust is given to or vested in two, or more trustees jointly it may be exercised or performed by the survivor or survivors of them for the time being. R.S.O. 1937, c. 165, s. 25.

INVESTMENTS

Power to invest trust moneys in certain securities.

26. A trustee having money in his hands which it is his duty, or which it is in his discretion to invest at interest, may invest the same in the debentures, bonds, stock or other securities of, or guaranteed by the Government of Canada, or of or guaranteed by any province of Canada, or of the Government of the United Kingdom, or of any municipal corporation in Canada, including debentures issued for public, separate, high or vocational school purposes or guaranteed by any municipal corporation in Ontario, or secured by or payable out of rates or taxes levied under the law of any province of Canada on property situated in such province and collectable by or through the municipality in which such property is situated, in the same manner and with the same rights of enforcing payment, as in the case of general municipal taxes in such municipality, or in securities which are first hypothecs upon real estate in the Province of Quebec or first charges upon real estate held in fee simple in any other province of Canada, or in the bonds or debentures issued by any incor-

porated company, in respect of which bonds or debentures annual or semi-annual subsidy payments sufficient to pay both principal and interest thereof are, by virtue of any general Act of the Parliament of Canada, payable by the Government of Canada to a trust company as trustee for the holders of such bonds or debentures, provided such investments are in other respects reasonable and proper, or he may entrust the same to a trust company incorporated or registered under the laws of Ontario for guaranteed investment as set out in *The Loan and Trust Corporations Act*, provided that it has been approved by the Lieutenant-Governor in Council. Rev. Stat., c. 214.

27.—(1) A trustee may deposit money with,

Investment
of trust
funds.

- (a) any loan corporation registered under *The Loan and Trust Corporations Act* and having a paid-up capital and reserve fund amounting in the aggregate to not less than \$600,000, the reserve fund being not less than \$150,000; or
- (b) any society or company incorporated under chapter 164 of the Revised Statutes of Ontario, 1877, or any Act incorporated therewith, or under chapter 169 of the Revised Statutes of Ontario, 1887, having a capitalized, fixed, paid up, and permanent stock not liable to be withdrawn therefrom of not less than \$200,000, and a reserve fund of not less than 15 per cent of its paid-up capital, and the stock of which has a market value of not less than seven per cent premium,

or may invest any money which it is his duty, or which it is in his discretion, to invest at interest, in terminable debentures or debenture stock of any such society or company, provided that such deposit or investment is in other respects reasonable and proper, and that the debentures are registered, and are transferable only on the books of the society or company in his name as trustee for the particular trust estate for which they are held, and that the deposit account in the society's or company's ledger is in the name of the trustee for the particular trust estate for which it is held and the deposit receipt or pass book is not transferable by endorsement or otherwise.

(2) Clauses *a* and *b* of subsection 1 shall not include any society or company which has not the approval of the Lieutenant-Governor in Council as one coming within the provisions of such clauses and as one in the debentures or debenture stock of which trustees may invest or with which they may deposit money. What approval necessary.

(3) Such approval shall not be given with respect to any society or company which does not appear to have kept Restriction.

strictly within its legal powers as to borrowing and investing. R.S.O. 1937, c. 165, s. 27 (1-3).

Power to vary or transpose securities.

28. A trustee may from time to time vary or transpose any securities in which money in his hands is invested, whether under the authority of this Act or otherwise, into or for any other securities of any nature authorized by this Act. R.S.O. 1937, c. 165, s. 28.

When trustee not chargeable for lending on insufficient security.

Imp. Act, 51-52 Vict., c. 59, s. 4.

29. A trustee lending money upon the security of any property upon which he may lawfully lend shall not be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made, if it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be a competent valuator, instructed and employed independently of any owner of the property, whether such valuator carried on business in the locality where the property is situate or elsewhere, and that the amount of the loan does not exceed 60 per cent of the value of the property as stated in the report and that it was made under the advice of the valuator expressed in the report. R.S.O. 1937, c. 165, s. 29; 1945, c. 27, s. 1.

Trustee lending more than authorized amount.

Imp. Act, 56-57 Vict., c. 53, s. 9.

30. Where a trustee has improperly advanced money on a mortgage security which would, at the time of the investment, have been a proper investment in all respects for a less sum than was actually advanced the security shall be deemed an authorized investment for such less sum, and the trustee shall only be liable to make good the sum advanced in excess thereof with interest. R.S.O. 1937, c. 165, s. 30.

Liability in case of change of character of investment.

Imp. Act, 57-58 Vict., c. 10, s. 4.

31. A trustee shall not be chargeable with breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorized by the instrument of trust or by the general law. R.S.O. 1937, c. 165, s. 31.

PROTECTION AND INDEMNITY

Extent of liability of trustees.

Imp. Act, 56-57 Vict., c. 53, s. 24.

32. A trustee shall be chargeable only for money and securities actually received by him, notwithstanding his signing any receipt for the sake of conformity, and shall be answerable and accountable only for his own acts, receipts, neglects or defaults, and not for those of any other trustee, nor for any banker, broker or other person with whom any trust money or securities may be deposited, nor for the insufficiency or deficiency of any securities, nor for any other loss, unless the same happens through his own wilful default, and may

reimburse himself or pay or discharge out of the trust property all expenses incurred in or about the execution of his trust or powers. R.S.O. 1937, c. 165, s. 32.

33.—(1) Where a trustee commits a breach of trust at the instigation or request or with the consent in writing of a beneficiary, the Supreme Court may make such order as to the court seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him.

Trustees committing breach of trust at instigation of beneficiary.
Imp. Act, 56-57 Vict., c. 53, s. 45.

(2) This section shall apply notwithstanding that the beneficiary is a married woman entitled for her separate use and restrained from anticipation. R.S.O. 1937, c. 165, s. 33.

Application to separate estate of married women.

TECHNICAL BREACHES OF TRUST

34. If in any proceeding affecting a trustee or trust property it appears to the court that a trustee, or that any person who may be held to be fiduciarily responsible as a trustee, is or may be personally liable for any breach of trust whenever the transaction alleged or found to be a breach of trust occurred, but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust, and for omitting to obtain the directions of the court in the matter in which he committed the breach, the court may relieve the trustee either wholly or partly from personal liability for the same. R.S.O. 1937, c. 165, s. 34.

Relief of trustees committing technical breach of trust.

Imp. Act, 59-60 Vict., c. 35, s. 3.

PAYMENT INTO COURT

35.—(1) Where any money belonging to a trust is in the hands or under the control of or is vested in a sole trustee or several trustees and it is the desire of the trustee, or of the majority of the trustees, to pay the money into court, the Supreme Court may order the payment into court to be made by the sole trustee, or by the majority of the trustees, without the concurrence of the other or others if the concurrence cannot be obtained.

Payment into court by trustees of trust funds or securities by order of court.
Imp. Act, 56-57 Vict., c. 53, s. 42.

(2) Where any such money is deposited with a banker or broker or other depository the court may order payment thereof to the Accountant of the Supreme Court, and payment made in pursuance of such order shall be valid and take effect as if it had been made on the authority or by the act of all the persons entitled to the money paid.

Payment or delivery to Accountant of court.

Imp. Act, 56-57 Vict., c. 53, s. 42.

(3) Where the trustee has been absent from Ontario for a year and is not likely to return at an early date, or in the event of the trustee's death, or where the trustee in Ontario cannot give an acquittance of the money, any person with whom trust

Payment into court by persons holding trust moneys for trustee.

money has been deposited or to whose hands trust money has come may make an application similar to that authorized by subsection 1.

Money found to be due infant, etc., on final passing of accounts in surrogate court to be paid into court.

(4) Where, on the passing of the final accounts of a personal representative, guardian or trustee by the judge of a surrogate court, there is found to be in the hands of such personal representative, guardian or trustee any money belonging to an infant or to a mentally incompetent person or person of unsound mind, or to a person whose address is unknown, it shall be the duty of such personal representative, guardian or trustee to pay the money into the Supreme Court to the credit of the person who is entitled to it.

Accountant to be furnished with copy of order, etc.

(5) A certified copy of the order or report of the judge shall be left with the Accountant when the money is paid in, and the person paying it in shall be entitled to deduct \$5 for his costs.

Moneys to which infant or mentally incompetent person entitled. Imp. Act, 13 and 14 Vict., c. 60, s. 48.

(6) Where an infant, mentally incompetent person or person of unsound mind is entitled to any money, the person by whom such money is payable may pay it into the Supreme Court to the credit of such infant, mentally incompetent person or person of unsound mind and this shall be a sufficient discharge for the money so paid into court.

Transfer of trust.

(7) Where a trustee desires to be relieved from his trust the court may order all securities held for the trust to be transferred to the Public Trustee.

Disposition.

(8) Money paid into court shall be subject to the order of the court.

Patient in mental hospital.

(9) Where, however, the person to whom money is due, as mentioned in subsections 4 and 6, is a patient in a hospital for mentally ill, mentally defective or epileptic persons and the Public Trustee is committee of his estate, the money due shall be paid over to the Public Trustee. R.S.O. 1937, c. 165, s. 35.

PERSONAL REPRESENTATIVES AND DEVISEES IN TRUST

Removal of Personal Representatives

Power of court to remove.

36.—(1) The Supreme Court may remove a personal representative upon any ground upon which the court may remove any other trustee, and may appoint some other proper person or persons to act in the place of the executor or administrator so removed.

Security by person appointed.

(2) Every person so appointed shall, unless the court otherwise orders, give such security as he would be required to give

if letters of administration were granted to him under *The Rev. Stat., c. 380.*
Surrogate Courts Act. R.S.O. 1937, c. 165, s. 36 (1, 2).

(3) The order may be made upon the application of any ^{Who may apply.} executor or administrator desiring to be relieved from the duties of the office, or of any executor or administrator complaining of the conduct of a co-executor or co-administrator, or of any person interested in the estate of the deceased. R.S.O. 1937, c. 165, s. 36 (3); 1943, c. 28, s. 39.

(4) Subject to any Rules of court, the practice in force for ^{Procedure.} the removal of any other trustee shall be applicable to proceedings to be taken in the Supreme Court under this section.

(5) Where the executor or administrator removed is not a ^{When new appointment unnecessary.} sole executor or administrator the court need not, unless it sees fit, appoint any person to act in the place of the person removed, and if no such appointment is made the rights and estate of the executor or administrator removed shall pass to the remaining executor or administrator as if the person so removed had died.

(6) The executor of any person appointed an executor ^{Chain of representation.} under this section shall not by virtue of such executorship be an executor of the estate of which his testator was appointed executor under this section, whether such person acted alone or was the last survivor of several executors. R.S.O. 1937, c. 165, s. 36 (4-6).

(7) A certified copy of the order of removal shall be filed ^{Copy of order to be filed with Registrar.} with the Registrar of the Supreme Court, and another copy with the registrar of the surrogate court by which probate or administration was granted, and such officers shall, at or upon the entry of the grant in the registers of their respective offices, make in red ink a short note giving the date and effect of the order, and shall also make a reference thereto in the index of the register at the place where the grant is indexed. R.S.O. 1937, c. 165, s. 36 (7); 1947, c. 101, s. 19 (1).

(8) The date of the grant shall be endorsed on the copy of ^{Endorsement.} the order filed with the Registrar of the Supreme Court. R.S.O. 1937, c. 165, s. 36 (8); 1947, c. 101, s. 19 (2).

(9) Where the estate is less than \$1,000, the jurisdiction ^{Jurisdiction of surrogate court.} conferred by this section may be exercised by the surrogate court. R.S.O. 1937, c. 165, s. 36 (9).

RIGHTS AND LIABILITIES OF PERSONAL REPRESENTATIVES

37.—(1) Except in cases of libel and slander, the executor ^{Actions by executors and administrators for torts.} or administrator of any deceased person may maintain an action for all torts or injuries to the person or to the property of the deceased in the same manner and with the same rights

and remedies as the deceased would, if living, have been entitled to do, and the damages when recovered shall form part of the personal estate of the deceased; provided that if death results from such injuries no damages shall be allowed for the death or for the loss of the expectation of life, but this proviso shall not be in derogation of any rights conferred by *The Fatal Accidents Act*. R.S.O. 1937, c. 165, s. 37 (1); 1938, c. 44, s. 3 (1).

Rev. Stat.,
c. 132.

Actions
against
executors
and adminis-
trators for
torts.

(2) Except in cases of libel and slander, if a deceased person committed a wrong to another in respect of his person or property, the person wronged may maintain an action against the executor or administrator of the person who committed the wrong.

Limitation
of actions.

(3) An action under this section shall not be brought after the expiration of one year from the death of the deceased. R.S.O. 1937, c. 165, s. 37 (2, 3).

Action of
account.
13 Edw. I.
(St. 1 West-
minster),
c. 23.

38. A personal representative shall have an action of account as the testator or intestate might have had if he had lived. R.S.O. 1937, c. 165, s. 38.

Powers of
executor to
whom
probate
granted.

39. An administrator with the will annexed or an executor to whom probate is granted shall have all the power conferred by the testator upon the executor named in his will and may in all respects act as effectually as though he alone had been named by the testator as his sole executor. R.S.O. 1937, c. 165, s. 39.

Execution of Powers

Who may
execute
direction to
sell, etc.,
where no
other person
is appointed.

40. Where there is in a will a direction, express or implied, to sell, dispose of, appoint, mortgage, encumber or lease any land, and no person is by the will or otherwise by the testator appointed to execute and carry the same into effect the executor, if any, named in the will may execute and carry into effect every such direction in respect of such land and any estate or interest therein in the same manner and with the same effect as if he had been appointed by the testator for that purpose. R.S.O. 1937, c. 165, s. 40.

Idem.

41. Where from any cause a court of competent jurisdiction has committed to a person, who has given security to the satisfaction of such court for his dealing with such land and its proceeds, letters of administration with a will annexed which contains an express or implied power to sell, dispose of, appoint, mortgage, encumber or lease any land, whether such power is conferred on an executor named in the will or the testator has not by the will or otherwise appointed a person

to execute it, the administrator may exercise the power in respect of such land in the same manner and with the same effect as if he had been appointed by the testator for that purpose. R.S.O. 1937, c. 165, s. 41.

Land Contracts of Deceased

42. Where a person has entered into a contract in writing for the sale and conveyance of land and has died intestate or without providing by will for the conveyance of such land to the person entitled or to become entitled to such conveyance, and where the deceased would be bound, were he alive, to execute a conveyance, his personal representative shall make and give to the person entitled to the same a good and sufficient conveyance of such land, of such nature as the deceased, if living, would be liable to give, but without covenants, except as against the acts of the grantor, and the conveyance shall be as valid and effectual as if the deceased were alive at the time of the making thereof, and had executed the same, but shall not have any further validity or effect. R.S.O. 1937, c. 165, s. 42.

Conveyance by personal representative in pursuance of a contract by deceased.

Devises in Trust

43.—(1) Where by any will coming into operation after the 18th day of September, 1865, a testator charges his land, or any specific part thereof, with the payment of his debts or with the payment of any legacy or other specific sum of money, and devises the land so charged to his executors or to a trustee without any express provision for the raising of such debt, legacy or sum of money out of such land, the devisee may raise such debt, legacy or money by a sale of such land or any part thereof, or by a mortgage of the same.

Power to raise money by sale or mortgage to satisfy charges.

Imp. Act, 22-23 Vict., c. 35, s. 14.

(2) Purchasers or mortgagees shall not be bound to inquire whether the powers conferred by this section, or any of them, have been duly and correctly exercised by the person acting in virtue thereof. R.S.O. 1937, c. 165, s. 43.

Purchaser's position. Imp. Act, 22-23 Vict., c. 35, s. 17.

44. Every personal representative, as respects the additional powers vested in him by this Act, and any money or assets by him received in consequence of the exercise of such powers, shall be subject to all the liabilities, and compellable to discharge all the duties which, as respects the acts to be done by him under such powers, would have been imposed upon a person appointed by the testator, or would have been imposed by law upon any person appointed by law, or by any court of competent jurisdiction to execute such power. R.S.O. 1937, c. 165, s. 44.

Duties and liabilities of an executor and administrator acting under the powers in this Act.

Survivor-
ship.

45.—(1) Where there are several personal representatives and one or more of them dies, the powers conferred upon them shall vest in the survivor or survivors, unless there is some provision to the contrary in the will. R.S.O. 1937, c. 165, s. 45 (1).

Idem.

(2) Until the appointment of new personal representatives, the personal representatives or representative for the time being of a sole personal representative, or, where there were two or more personal representatives, of the last surviving or continuing personal representative, shall be capable of exercising or performing any power or trust which was given to, or capable of being exercised by the sole or last surviving personal representative. R.S.O. 1937, c. 165, s. 45 (2); 1938, c. 44, s. 4.

EFFECT OF REVOCATION OF AN ERRONEOUS GRANT

Validity
of acts done
prior to
revocation of
erroneous
grant.

46.—(1) Where a court of competent jurisdiction has admitted a will to probate, or has appointed an administrator, notwithstanding that the grant of probate or the appointment may be subsequently revoked as having been erroneously made, all acts done under the authority of the probate or appointment, including all payments made in good faith to or by the personal representative, shall be as valid and effectual as if the same had been rightly granted or made; but upon revocation of the probate or appointment, in cases of an erroneous presumption of death, the supposed decedent, and in other cases the new personal representative may, subject to subsections 2 and 3, recover from the person who acted under the revoked grant or appointment any part of the estate remaining in his hands undistributed and, subject to *The Limitations Act*, from any person who erroneously received any part of the estate as a devisee, legatee or one of the next of kin, or as a husband or wife of the decedent or supposed decedent, the part so received or the value thereof.

Rev. Stat.,
c. 207.

Expenses.

(2) The person acting under the revoked probate or appointment may retain out of any part of the estate remaining in his hands undistributed his proper costs and expenses incurred in the administration.

Fraud.

(3) Nothing in this section shall protect any person acting as personal representative where he has been party or privy to any fraud whereby the grant or appointment has been obtained, or after he has become aware of any fact by reason of which revocation thereof is ordered unless, in the latter case, he acts in pursuance of a contract for valuable consideration and otherwise binding made before he became aware of such fact. R.S.O. 1937, c. 165, s. 46.

ADMINISTRATION OF ESTATES

47.—(1) A personal representative may pay or allow any debt or claim on any evidence that he thinks sufficient. Power to pay debts;

(2) A personal representative, or two or more trustees acting together, or a sole acting trustee, where, by the instrument, if any, creating the trust, a sole trustee is authorized to execute the trusts and powers thereof may, if and as he or they may think fit, accept any composition or any security, real or personal, for any debt or for any property, real or personal, claimed, and may allow any time for payment for any debt, and may compromise, compound, abandon, submit to arbitration or otherwise settle any debt, account, claim or thing whatever relating to the testator's or intestate's estate or to the trust, and for any of these purposes may enter into, give, execute, and do such agreements, instruments of composition or arrangement, releases, and other things as to him or them seem expedient without being responsible for any loss occasioned by any act or thing done by him or them in good faith. R.S.O. 1937, c. 165, s. 47. to compound, etc.
Imp. Act,
56-57 Vict.,
c. 53, s. 21.

48.—(1) On the administration of the estate of a deceased person, in the case of a deficiency of assets, debts due to the Crown and to the personal representative of the deceased person, and debts to others, including therein debts by judgment or order, and other debts of record, debts by specialty, simple contract debts, and such claims for damages as are payable in like order of administration as simple contract debts shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing herein shall prejudice any lien existing during the lifetime of the debtor on any of his property. R.S.O. 1937, c. 165, s. 48. In case of deficiency of assets, debts to rank *pari passu*.

(2) Where a personal representative pays more to a creditor or claimant than the amount to which he is entitled under subsection 1, the overpayment shall not entitle any other creditor or claimant to recover more than the amount to which he would be entitled if the overpayment had not been made. Overpayment to creditor.

(3) Where a personal representative pays more to a creditor or claimant than the amount to which he is entitled under subsection 1, the court may relieve the personal representative either wholly or partly from personal liability if it is satisfied that he has acted honestly and reasonably and for the protection or conservation of the assets of the estate. 1944, c. 66, s. 1. Relief from personal liability.

As to liability of executor or administrator in respect of covenants, etc., in leases. Imp. Act, 22-23 Vict., c. 35, s. 27.

49.—(1) Where a personal representative, liable as such to the rents, or upon the covenants or agreements contained in a lease or agreement for a lease granted or assigned to the testator or intestate, has satisfied all liabilities under the lease or agreement for a lease, which accrued due and were claimed up to the time of the assignment hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease, or agreement for lease, to a purchaser thereof, he may distribute the residuary estate of the deceased to and among the parties entitled thereto, without appropriating any part or any further part thereof, as the case may be, to meet any future liability under the lease or agreement for lease.

No personal liability for subsequent claim.

(2) The personal representative so distributing the residuary estate shall not be personally liable in respect of any subsequent claim under the lease or agreement for lease.

Right to follow assets not affected.

(3) Nothing in this section shall prejudice the right of the lessor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom they have been distributed. R.S.O. 1937, c. 165, s. 49.

As to liability of personal representative in respect of rents, etc., in conveyances on rent-charge, etc. Imp. Act, 22-23 Vict., c. 35, s. 28.

50.—(1) Where a personal representative, liable as such to the rent or upon the covenants or agreements contained in any conveyance on chief rent or rent-charge, whether any such rent is by limitation of use, grant or reservation, or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate, has satisfied all liabilities under the conveyance, or agreement for a conveyance, which accrued due and were claimed up to the time of the conveyance by him hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and has conveyed such property, or assigned such agreement for conveyance to a purchaser thereof, he may distribute the residuary estate of the deceased to and among the persons entitled thereto, without appropriating any part or any further part thereof, as the case may be, to meet any further liability under the conveyance or agreement for conveyance.

No personal liability for any subsequent claim.

(2) A personal representative so distributing the residuary estate shall not be personally liable in respect of any subse-

quent claim under the conveyance or agreement for conveyance.

(3) Nothing in this section shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom they have been distributed. R.S.O. 1937, c. 165, s. 50.

Right of grantor, etc. to follow assets not affected.

51.—(1) Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of creditors generally, or of a particular class or classes of creditors, where the creditors are not designated by name therein, or a personal representative has given such or the like notices as, in the opinion of the court in which such trustee, assignee, or personal representative is sought to be charged, would have been directed to be given by the Supreme Court in an action for the execution of the trusts of such deed or assignment, or in an administration suit, for creditors and others to send in to such trustee, assignee, or personal representative, their claims against the person for the benefit of whose creditors such deed or assignment is made, or against the estate of the testator or intestate, as the case may be, at the expiration of the time named in the notices, or the last of the notices, for sending in such claims, he may distribute the proceeds of the trust estate, or the assets of the testator or intestate, as the case may be, or any part thereof among the persons entitled thereto, having regard to the claims of which he has then notice, and shall not be liable for the proceeds of the trust estate, or assets, or any part thereof so distributed to any person of whose claim he had not notice at the time of the distribution.

Distribution of assets under trust deeds for benefit of creditors, or of the assets of intestate. Imp. Act. 22-23 Vict., c. 35, s. 29.

(2) Nothing in this section shall prejudice the right of any creditor or claimant to follow the proceeds of the trust estate, or assets, or any part thereof into the hands of persons who have received the same.

Right of creditor to follow assets not affected.

(3) Subsection 1 shall not apply to heirs, next of kin, devisees or legatees claiming as such. R.S.O. 1937, c. 165, s. 51.

Subs. 1 not to apply to heirs, etc.

52. Property over which a deceased person had a general power of appointment, which he might have exercised for his own benefit without the assent of any other person, shall be assets for the payment of his debts where the same is appointed by his will, and, under an execution against the personal representatives of such deceased person, such assets may be seized and sold after the deceased person's own property has been exhausted. R.S.O. 1937, c. 165, s. 52.

Exercise of general power by will, effect of. 3 W. & M., c. 14.

Undisposed
of residue.
Rev. Stat.,
c. 103.
Imp. Act,
11 Geo. IV.,
and 1 W. IV.,
c. 40, s. 1.

53.—(1) When a person dies having by will appointed an executor, the executor, in respect of any residue not expressly disposed of, shall be deemed to be a trustee for the person, if any, who would be entitled to the estate under *The Devolution of Estates Act* in case of an intestacy, unless it appears by the will that the executor was intended to take the residue beneficially.

Where there
is no person
entitled to
the residue.
Imp. Act,
11 Geo. IV.,
and 1 W. IV.,
c. 40, s. 2.

(2) Nothing in this section shall prejudice any right in respect of any residue not expressly disposed of to which, if this Act had not been passed, an executor would have been entitled where there is not any person who would be entitled to the testator's estate under *The Devolution of Estates Act* in case of an intestacy. R.S.O. 1937, c. 165, s. 53.

Rights and
liabilities of
executors of
executors.

54. Executors of executors shall have the same actions for the debts and property of the first testator as he would have had if in life, and shall be answerable for such of the debts and property of the first testator as they shall recover as the first executors would be if they had recovered the same. R.S.O. 1937, c. 165, s. 54.

See 25 Edw.
111., Stat. 5,
c. 5.

Liability of
personal
representa-
tive of
one who
commits
waste.
30 Chas. II,
c. 7, s. 1.
4 W. and M.,
c. 24, s. 12.

55. The personal representative of any person who, as executor or as executor in his own wrong, or as administrator, wastes or converts to his own use any part of the estate of any deceased person shall be liable and chargeable in the same manner as his testator or intestate would have been if he had been living. R.S.O. 1937, c. 165, s. 55.

Deficiency
of assets.

56.—(1) On the administration of the estate of a deceased person, in case of a deficiency of assets, every creditor holding security on the estate of the deceased debtor or on the estate of a third person for whom the estate of the deceased debtor is only indirectly or secondarily liable, shall place a value on such security and the creditor shall rank upon the distribution of assets only upon the unsecured portion of his claim after deducting the value of the security, unless the personal representative shall elect to take over the security as herein-after provided.

Where
personal
representa-
tive requires
creditor to
prove claim.

(2) Where the personal representative of a deceased person is of the opinion that there may be a deficiency of assets, he may require any creditor to prove his claim and to state whether he holds any security for his claim or any part thereof, and to give full particulars of the same and if such security is on the estate of the deceased debtor or on the estate of a third person for whom the estate of the deceased debtor is only indirectly or secondarily liable, to place a specified value on such security and the personal representative may either

consent to the creditor ranking for the amount of his claim after deducting such valuation or may require from the creditor an assignment of the security at an advance of 10 per cent upon the specified value to be paid out of the estate as soon as the personal representative has realized upon such security or is in a position to make payment out of the assets of the estate and in either case the difference between the value at which the security is retained or taken, as the case may be, and the amount of the claim of the creditor, shall be the amount for which he shall rank upon the estate of the deceased debtor.

(3) Where inspectors have been appointed as hereinafter provided or where the estate is being administered under the direction of or by a court, the personal representative in making his election shall act under the direction of the inspectors or of the court, as the case may be, and the remuneration of the inspectors shall be determined by the surrogate court judge on the passing of accounts. Inspectors, directing of; remuneration of.

(4) If the claim of the creditor is based upon a negotiable instrument upon which the estate of the deceased debtor is only indirectly or secondarily liable and which is not mature or exigible, the creditor shall be considered to hold security within the meaning of this section and shall put a value on the liability of the person primarily liable thereon as his security for the payment thereof, but after the maturity of such liability and its non-payment he shall be entitled to amend and revalue his claim. R.S.O. 1937, c. 165, s. 56. Where claim based on negotiable instruments.

57.—(1) Where a creditor fails to value any security held by him which under this Act he is called upon to value, the personal representative may apply in a summary way to the judge of the surrogate court from which probate or letters of administration were issued for an order that unless a specified value is placed on such security and notified in writing to the personal representative, within a time to be limited by the order, such claimant shall, in respect of the claim or the part thereof for which security is held, be wholly barred of any right to share in the proceeds of the estate unless the judge upon the application of the creditor extends the time for the valuation of the security. When creditor holding security fails to value same.

(2) Where an estate is being administered by or under the direction of a court, such court shall exercise the jurisdiction conferred by this section upon the judge of the surrogate court. R.S.O. 1937, c. 165, s. 57. Administration under direction of a court.

58.—(1) Where in the administration of the estate of a deceased person the personal representative fears that there may be a deficiency of assets or that all the creditors will not be paid in full, the personal representative may call a meeting Calling meeting of creditors where there is a deficiency of assets.

of creditors and lay before them the situation of the estate and at such meeting inspectors may be appointed by the creditors to assist the personal representative in the administration of the estate and to advise him with respect thereto.

Creditors' request for meeting.

(2) In any such case the personal representative shall call a meeting of creditors for the purpose aforesaid at the request in writing of creditors holding 10 per cent of the amount of claims filed against the estate.

Appointment of creditor as an inspector.

(3) In cases where no meeting of creditors has been held the personal representative may appoint a creditor or creditors as inspector or inspectors to assist him in the realizing and management of the estate but in such case the appointment shall be approved by the surrogate judge before the inspectors accept office. R.S.O. 1937, c. 165, s. 58.

APPLICATIONS TO COURT FOR ADVICE

Trustee, etc., may apply for advice in management of trust property.

Imp. Act, 22-23 Vict., c. 35, s. 30.

59.—(1) A trustee, guardian or personal representative may, without the institution of an action, apply to the Supreme Court for the opinion, advice or direction of the court on any question respecting the management or administration of the trust property or the assets of his ward or his testator or intestate.

Indemnity of trustee, etc., acting as advised.

(2) The trustee, guardian or personal representative acting upon the opinion, advice or direction given shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee, guardian or personal representative, in the subject matter of the application, unless he has been guilty of some fraud, wilful concealment or misrepresentation in obtaining such opinion, advice or direction. R.S.O. 1937, c. 165, s. 59.

ALLOWANCE TO TRUSTEES AND PERSONAL REPRESENTATIVES

Allowance to trustees, etc.

60.—(1) A trustee, guardian or personal representative shall be entitled to such fair and reasonable allowance for his care, pains and trouble, and his time expended in and about the estate, as may be allowed by a judge of the Supreme Court or by any master or referee to whom the matter may be referred.

Though estate not before the court.

(2) The amount of such compensation may be settled although the estate is not before the court in an action.

Allowance to personal representative for services.

(3) The judge of a surrogate court, in passing the accounts of a trustee or of a personal representative or guardian, may from time to time allow to him a fair and reasonable allowance for his care, pains and trouble, and his time expended in or about the estate.

(4) Where a barrister or solicitor is a trustee, guardian or personal representative, and has rendered necessary professional services to the estate, regard may be had in making the allowance to such circumstance, and the allowance shall be increased by such amount as may be deemed fair and reasonable in respect of such services.

Allowance to barrister or solicitor trustee for professional services.

(5) Nothing in this section shall apply where the allowance is fixed by the instrument creating the trust. R.S.O. 1937, c. 165, s. 60.

Where allowance fixed by the instrument.

MISCELLANEOUS

61. A trustee who is either a vendor or a purchaser may sell or buy without excluding the application of section 1 of *The Vendors and Purchasers Act*. R.S.O. 1937, c. 165, s. 61.

Trustees buying or selling.
Rev. Stat., c. 407.

62. This Act, and every order purporting to be made under it, shall be a complete indemnity to all persons for any acts done pursuant thereto. R.S.O. 1937, c. 165, s. 62.

Indemnity.
Imp. Acts, 15 and 16 Vict., c. 55, s. 7; 56-57 Vict., c. 52, s. 49.

63. The Supreme Court may order the costs of and incidental to any application, order, direction, conveyance, assignment or transfer under this Act, or any part thereof, to be paid or raised out of the property in respect of which the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as the court may deem proper. R.S.O. 1937, c. 165, s. 63.

Costs may be ordered to be paid out of estate.

64. Subject to section 65, unless otherwise expressed therein, this Act shall apply to all trusts whenever created and to all trustees whenever appointed. R.S.O. 1937, c. 165, s. 64.

Application of Act.

65. The powers, rights and immunities conferred by this Act are in addition to those conferred by the instrument creating the trust, and shall have effect subject to the terms thereof. R.S.O. 1937, c. 165, s. 65.

Additional powers.

66. Nothing in this Act shall authorize a trustee to do anything which he is in express terms forbidden to do, or to omit to do anything which he is in express terms directed to do by the instrument creating the trust. R.S.O. 1937, c. 165, s. 66.

Express terms of trust instrument to prevail.

1. The first part of the book is a general introduction to the subject of the history of the English language. It discusses the various factors that have influenced the development of the language over time, including social, cultural, and political changes. The author also touches upon the importance of the English language in the modern world.

2. The second part of the book is a detailed study of the Old English period, which lasted from the fifth to the eleventh century. It covers the language of the Anglo-Saxons and the influence of Old Norse and Old French. The author provides a comprehensive overview of the grammar, vocabulary, and literature of this period.

3. The third part of the book is a study of the Middle English period, which lasted from the thirteenth to the fifteenth century. It discusses the influence of French and Latin on the English language and the development of the Chaucerian dialect. The author also examines the literature of this period, including the works of Chaucer and other notable writers.

4. The fourth part of the book is a study of the Modern English period, which began in the sixteenth century and continues to the present day. It covers the influence of the Renaissance, the Scientific Revolution, and the Industrial Revolution on the English language. The author also discusses the development of the English language in the twentieth century and the twenty-first century.

5. The fifth part of the book is a study of the English language in the world. It discusses the spread of the English language to other parts of the world and the influence of other languages on English. The author also examines the role of the English language in global communication and the challenges it faces in the future.

CHAPTER 401

The Unclaimed Articles Act

1. This Act shall apply in the case of,Application
of Act.

- (a) any article of clothing or household goods,
 - (i) which is deposited with a person for cleaning, pressing, glazing, washing or repairing, and
 - (ii) which, through no fault of the person with whom it is deposited, remains in his possession for a period of not less than six months,

in respect of which the agreed or reasonable charges for the services mentioned in subclause i are unpaid; and

- (b) any article of clothing or household goods,
 - (i) which is deposited with a person for storage whether or not it is also deposited for cleaning, pressing, glazing, washing or repairing, and
 - (ii) which, through no fault of the person with whom it is deposited, remains in his possession for a period of not less than two years,

in respect of which the agreed or reasonable charges for storage are unpaid for any period of not less than 12 months. 1947, c. 111, s. 1.

2.—(1) Upon the expiration of the period mentioned in subclause ii of clause *a* or subclause ii of clause *b* of section 1, as the case may be, the person with whom an article is deposited may cause a notice to be served by personal service upon,

Notice to
owner or
person
depositing
article.

- (a) the owner of the article;
- (b) the person who deposited the article; or
- (c) an adult person,
 - (i) at the address where the owner or person who deposited the article resides, or
 - (ii) at the address furnished by the owner or person who deposited the article at the time the article was deposited,

stating,

- (d) the amount of the agreed or reasonable charges in respect of the article; and
- (e) that if such charges are not paid within 30 days of the date of the service of the notice, the article will be disposed of.

Notice may cover more than one article.

(2) Any notice under this section may be in respect of more than one article belonging to or deposited by the same person. 1947, c. 111, s. 2.

Where notice cannot be given.

3. Where the whereabouts of the owner of and the person depositing an article cannot be ascertained and after all reasonable inquiries it is found that section 2 cannot be complied with, the person with whom an article is deposited may, without effecting service of notice as required by section 2, dispose thereof in the manner prescribed by section 4. 1947, c. 111, s. 3.

Disposal of articles.

4.—(1) Upon the expiration of the thirty-day period mentioned in subsection 1 of section 2, the person with whom the article is deposited may dispose of it,

- (a) by giving it to a charitable organization, or by giving it to any organization in order that it may be used for charitable purposes; or
- (b) in the case of an article,
 - (i) which has been declared by the owner or person depositing it to have a value of not more than \$100, or
 - (ii) in the absence of such a declaration, having a reasonable market value of not more than \$100,

by selling it.

Record of articles disposed of.

(2) Every person who disposes of articles under this section shall maintain a record of the articles disposed of and the persons or organizations to whom they are disposed. 1947, c. 111, s. 4.

Proof of facts.

5. Where an article has been disposed of under this Act, *prima facie* evidence of compliance with this Act or of the existence of any fact or the doing of any act may be given in any court by the affidavit of a person having actual knowledge thereof. 1947, c. 111, s. 5.

6. Where an article has been disposed of under this Act the person who disposed of it shall thereby relinquish all claims against the owner or person depositing it for unpaid charges for services upon or storage of the article. 1947, c. 111, s. 6. Relinquish
claims for
charges.

7. This Act shall not affect the right of any person to proceed in the manner prescribed by *The Warehousemen's Lien Act* or by *The Mechanics' Lien Act*. 1947, c. 111, s. 7; 1948, c. 87, s. 12. Exceptions.
Rev. Stat.,
cc. 417, 227.



CHAPTER 402

The Unconscionable Transactions Relief Act**1. In this Act,**Interpre-
tation.

- (a) "cost of the loan" means the whole cost to the debtor of money lent and includes interest, discount, subscription, premium, dues, bonus, commission, brokerage fees and charges, but not actual lawful and necessary disbursements made to a registrar of deeds, a master or local master of titles, a clerk of a county or district court, a sheriff or a treasurer of a municipality;
- (b) "court" means a court having jurisdiction in an action for the recovery of a debt or money demand to the amount claimed by a creditor in respect of money lent;
- (c) "creditor" includes the person advancing money lent and the assignee of any claim arising or security given in respect of money lent;
- (d) "debtor" means a person to whom or on whose account money lent is advanced, and includes every surety and endorser or other person liable for the repayment of money lent or upon any agreement or collateral or other security given in respect thereof;
- (e) "money lent" includes money advanced on account of any person in any transaction which, whatever its form may be, is substantially one of money-lending or securing the repayment of money so advanced. R.S.O. 1937, c. 243, s. 1, cls. (a-d, f).

2. Where, in respect of money lent, the court finds that The court may,
having regard to the risk and to all the circumstances the
cost of the loan is excessive and that the transaction is harsh Imp. Act, 63-64 V., c. 51, s. 1.
and unconscionable the court may,

- (a) re-open the transaction and take an account between re-open transaction and take account;
the creditor and the debtor;
- (b) notwithstanding any statement or settlement of re-open former settle-
ments;
account or any agreement purporting to close
previous dealings and create a new obligation,

re-open any account already taken and relieve the debtor from payment of any sum in excess of the sum adjudged by the court to be fairly due in respect of the principal and the cost of the loan;

order re-payment of excess;

- (c) order the creditor to repay any such excess if the same has been paid or allowed on account by the debtor;

set aside or revise contract.

- (d) set aside either wholly or in part or revise or alter any security given or agreement made in respect of the money lent, and, if the creditor has parted with the security, order him to indemnify the debtor. R.S.O. 1937, c. 243, s. 3.

Exercise of powers of court, in action by creditor;

3. The powers conferred by section 2 may be exercised,

in action by debtor;

- (a) in an action or proceeding by a creditor for the recovery of money lent;
- (b) in an action by the debtor notwithstanding any provision or agreement to the contrary, and notwithstanding that the time for repayment of the loan or any instalment thereof has not arrived;

in other proceedings.

- (c) in an action or proceeding in which the amount due or to become due in respect of money lent is in question. R.S.O. 1937, c. 243, s. 4.

Saving *bona fide* holder for value, and existing jurisdiction.

4. Nothing in this Act shall affect the rights of a *bona fide* assignee or holder for value without notice, or derogate from the existing powers or jurisdiction of any court. R.S.O. 1937, c. 243, s. 5.

CHAPTER 403

The Unemployment Relief Act

1.—(1) The Lieutenant-Governor in Council shall have full power and authority respecting unemployment relief measures of every nature and kind, and to do and perform and to require the doing and performance of any act, matter, deed or thing as may from time to time appear necessary to cope with unemployment relief conditions.

General
powers of
Lieutenant-
Governor
in Council.

(2) Without restricting the generality of the foregoing, the Lieutenant-Governor in Council shall have full power and authority for such purposes,

Specific
powers.

- (a) to enter into, carry out and perform agreements, undertakings and arrangements with the Government of Canada and with any municipality in Ontario;
- (b) to authorize the Government of Ontario either alone or in conjunction with the Government of Canada or any municipality to undertake, carry out and complete such works or other measures, or provide and furnish direct relief for the relief of unemployed persons and their dependants;
- (c) to provide and direct payment of the whole or any part of the cost of any relief works or measures and of direct relief undertaken, provided or furnished in Ontario by the Government of Ontario or the Government of Canada or by any municipality;
- (d) to contribute to the Government of Canada or to any municipality such proportion of the cost of any relief works or measures and of direct relief undertaken by them or any of them;
- (e) to require any municipality to undertake relief works or measures and provide direct relief for the relief of unemployed persons and their dependants actually residing therein;
- (f) to require any municipality to provide and pay to the Government of Ontario the whole or any portion of the cost of any relief works or measures and of direct relief undertaken, provided or furnished by the

Government of Ontario for the relief of unemployed persons and their dependants actually residing in such municipality;

- (g) to make regulations with respect to relief works or measures and direct relief and the administration of unemployment relief, and as to the undertaking, provision, furnishing and cost thereof and as to the persons to be entitled to unemployment relief, and as to the powers, responsibilities and duties of municipalities in relation to unemployment relief and the undertaking of relief works or measures and the providing and furnishing of direct relief, and as to the provision and payment by municipalities of the whole or any part of the cost of relief works or measures and direct relief; and in other respects as may appear necessary or expedient; 1935, c. 71, s. 2.
- (h) to make regulations for the establishment of a system of employment and unemployment registration and certification with respect to employment in relation to unemployment and unemployment relief, and for compliance with such system by employers, employees and unemployed persons. 1936, c. 62, s. 2.

Validity
of future
agreements.

2. Every agreement, undertaking or arrangement entered into or made under the authority of this Act, or purporting so to be, between the Government of Ontario and the Government of Canada or any municipality shall be legal and valid for all purposes, and if entered into or made with a municipality shall be binding upon the corporation and the rate-payers thereof. 1935, c. 71, s. 3 (1).

Payment of
cost out of
Consoli-
dated
Revenue
Fund.

3.—(1) The Lieutenant-Governor in Council may set aside and pay or direct payment out of the Consolidated Revenue Fund the sums or any of them required for the purpose of carrying out the provisions of this Act or of any Order in Council, regulation, order, agreement, undertaking or arrangement confirmed and validated by *The Unemployment Relief Act, 1935* or issued or made under the authority of this Act.

Loans for
relief
purposes.

(2) The Lieutenant-Governor in Council may raise by way of loan in such manner and at such times as he may deem expedient such sums of money as are or may be required for any of the purposes mentioned in this Act.

When loans
may be
made.

(3) The authority conferred by subsection 2 may be exercised either before or after expenditures or liabilities have been incurred or made for any of such purposes.

(4) A recital or declaration in any Order in Council issued under subsection 2 that the amount of the loan therein authorized is or will be required for any of the purposes mentioned in this Act shall be conclusive evidence of the fact. 1935, c. 71, s. 4.

Recital
in Order in
Council to
be evidence.

4.—(1) Every municipality shall be liable to provide and shall provide for the relief of unemployed persons and their dependants actually residing in the municipality as may from time to time be required by any agreement, Order in Council or regulation made or issued under this Act or confirmed and validated by *The Unemployment Relief Act, 1935*.

Municipal
liability
to provide
relief.

(2) Where the Government of Ontario and the Government of Canada or either of them has heretofore undertaken relief works or measures or provided direct relief or hereafter undertakes or provides the same for the relief of unemployed persons and their dependants actually residing in any municipality, the corporation thereof shall pay or repay to the said Governments or Government, as the case may be, such proportion or the whole of the cost of such works or measures or direct relief as may be required by any agreement, Order in Council or regulation made or issued under this Act or confirmed and validated by *The Unemployment Relief Act, 1935*.

Municipal
liability
for cost
of relief.

(3) The Lieutenant-Governor in Council shall have authority to determine and fix the proportions or amounts which shall be contributed and made by the Government of Ontario and by any municipality to meet the cost of relief works or measures and direct relief undertaken or provided for the relief of unemployed persons and their dependants actually residing in such municipality. 1935, c. 71, s. 5.

Power to fix
contribu-
tions to cost
of unem-
ployment
relief.

5.—(1) For the purposes mentioned in this Act every municipality in addition to all power and authority now vested in it shall have for the purpose of taking advantage of and performing, observing and carrying out of the provisions of any Act of Canada or Ontario, or of any agreement, undertaking or arrangement entered into or made or any Order in Council, regulation or order made or issued under any Act of Canada or Ontario, full power and authority in such behalf and for the undertaking of relief works or measures and providing direct relief.

Municipal
powers
in respect
of relief.

(2) For such purposes the council of a municipality shall have full power and authority to provide, impose, levy and collect taxes and to provide, appropriate, receive and pay out of any of the revenues and funds of the corporation such sums of money as may be required to meet and defray the cost of relief works or measures and direct relief or to pay any debent-

Municipal
taxation
and
payments.

tures and interest thereon heretofore or hereafter issued in respect thereto, or for contributing and paying to the Government of Canada and the Government of Ontario, or either of them, the whole or any portion of the cost of relief works or measures and direct relief undertaken or provided by such Governments or either of them and which cost or portion thereof the municipality is required to provide, pay or contribute to under this Act or any agreement, undertaking, arrangement, Order in Council, or regulation entered into, made or issued under this Act or confirmed and validated by *The Unemployment Relief Act, 1935*.

1935,
c. 71.

Work
beyond
municipal
limits.

(3) A relief work undertaken by a municipality may include or be a work undertaken beyond or extending beyond the limits of the municipality. 1935, c. 71, s. 6.

Municipal
relief
debentures.

6.—(1) Subject as hereinafter provided, the council of a municipality which has heretofore undertaken relief works or measures or provided direct relief or hereafter undertakes or provides the same or which, after the 18th day of April, 1935, contributes and pays the whole or any portion of the cost of any relief works or measures undertaken or direct relief provided by the Government of Canada and the Government of Ontario, or either of them, may issue debentures to defray the whole or any part of the cost of such work or measures or direct relief or of such contributions and payments.

Approval by
Municipal
Board.

(2) No by-law to provide for the issue of debentures for any of the purposes mentioned in subsection 1 shall be finally passed until the form of the by-law and the purpose, amount and term for which the debentures are to be issued have been approved by the Ontario Municipal Board. 1935, c. 71, s. 7 (1, 2).

Inclusion
of direct
relief cost
in current
estimates
of council.

(3) The council of a municipality which does not include in its estimates for any year appropriations to be met out of the current revenues of such year of an amount sufficient to meet in full the cost of direct relief, or the municipality's share thereof, estimated to be incurred and expended during the year, shall not adopt the yearly estimates and levy the rates for such year until application to the Board has been made for approval of debentures being issued to meet that part of such cost or share for which no appropriation has been made in the estimates, and if no such approval is given by the Board, or to the extent to which such approval is not given, the council shall include in the yearly estimates an appropriation to be met out of current revenues, of an amount sufficient for such purpose. 1936, c. 62, s. 3.

Direct relief
debentures
limited to
10 years.

(4) No debentures shall be issued under the authority of this section for defraying any part of the cost to the muni-

pality of providing or contributing to and paying the cost of direct relief or any portion thereof for a term exceeding 10 years.

(5) No debentures shall be issued under the authority of this section in respect of any part of the cost of a relief work or measure or of providing direct relief which is or is to be defrayed or met ultimately by the Government of Canada and the Government of Ontario, or either of them, or from receipt of voluntary contributions or any source other than taxation. Debentures for municipal share only.

(6) This section shall be deemed to include a work which has been or is undertaken under *The Local Improvement Act*. Local improvement works. Rev. Stat., c. 215.

(7) A by-law of a municipality to provide for the issue of debentures passed or purporting to have been passed under the authority of this section which has been approved by the Ontario Municipal Board, and the debentures issued or to be issued thereunder shall not for their validity require the assent of the electors of the municipality qualified to vote on money by-laws, or observance of any other formality prescribed by *The Municipal Act*, and every such by-law and every debenture issued thereunder shall be indefeasible and legal, valid and binding upon the corporation and the taxpayers thereof notwithstanding any invalidity or irregularity therein or affecting the same. Validity of by-laws and debentures. Rev. Stat., c. 243.

(8) Any by-law passed with the approval of the Board may with the like approval be amended, and this section shall apply to such amended by-law and to any debenture issued or to be issued thereunder. 1935, c. 71, s. 7 (3-7). Amendment of by-laws.

7.—(1) Pending payment to a municipality of that part of the cost of any relief work or measure or of direct relief which is to be paid by the Government of Canada and the Government of Ontario, or either of them, or from voluntary contributions, or any source other than municipal taxation, the council of the municipality may by by-law borrow from time to time a sum or sums not exceeding in the aggregate the amounts of such contributions; provided that such borrowings shall be repayable immediately upon payment to the municipality of such contributions. Temporary municipal borrowings.

(2) Any amount borrowed under the authority of this section to the extent the same is repayable from the contributions mentioned in subsection 1 shall not be taken into account in ascertaining whether the limit of the borrowing power of a municipality provided for in section 341 of *The Municipal Act* has been reached. General borrowing power not affected. Rev. Stat., c. 243.

When
section
applicable.

(3) This section shall only apply to a municipality which makes provision for borrowing under the authority thereof separately and apart from any borrowings it may make for any other purposes of the municipality. 1935, c. 71, s. 8.

Dwelling
repairs.

8.—(1) Subject to the approval of the Lieutenant-Governor in Council, any municipality may as a relief work or measure undertake, directly or indirectly, the repair of dwelling houses and other tenements situated in the municipality and charge the whole or any portion of the cost of such repairs upon the lands upon which such dwelling houses or tenements are erected.

Levy of cost
of repairs
upon the
land.

(2) The cost or such portion thereof as is to be chargeable against the land upon which a dwelling house or tenement repaired under the authority of this section is erected shall form part of the taxes upon such land and be payable in one or more years as the council may determine, and the amount of the cost or the annual instalment thereof shall be entered in the proper collector's roll and be collected with and as part of the taxes levied upon the land, and the provisions of *The Assessment Act* with respect to taxes upon real property shall apply thereto.

Rev. Stat.,
c. 24.

Municipal
housing and
abolition of
slum areas.

(3) Subject to the approval of the Lieutenant-Governor in Council, any municipality may as a relief work or measure undertake or participate in any scheme for abolition of slum areas or for housing in the municipality which may be inaugurated or aided by the Government of Canada or the Government of Ontario or by the municipality itself, and this Act shall apply to expenditures of the municipality for such purpose. 1935, c. 71, s. 9.

Fixed
assessments
of factories
not to
apply to
relief rates.

9. Notwithstanding the provisions of any general or special Act or of any by-law passed or agreement entered into by a municipality to grant exemption from taxation or to fix the assessment or taxation of the lands of any person carrying on or proposing to carry on within the municipality any manufacturing business, any municipal taxation levied by the municipality for unemployment relief purposes or to pay the sinking fund or principal of or interest upon any debentures issued by the municipality for such purposes shall be levied upon the full rateable value of such lands and upon the business assessment thereof as if such by-law had not been passed or agreement entered into. 1935, c. 71, s. 10 (1).

Adminis-
tration of
Act by
Minister
of Welfare.

10.—(1) The administration of this Act shall be vested in the Minister of Public Welfare.

(2) The Lieutenant-Governor in Council may at any time appoint a commission to administer this Act and unemployment relief in Ontario, which commission shall be known as "The Ontario Relief Commission" and be composed of not more than five persons to be appointed by the Lieutenant-Governor in Council to hold office during his pleasure. Appointment of relief commission.

(3) The Commission shall exercise and perform such powers and duties in relation to unemployment relief as the Lieutenant-Governor in Council may from time to time determine. Powers and duties.

(4) The Commission shall have for its purposes such officers, clerks and servants in the public service of Ontario or of any department of its Government as the Lieutenant-Governor in Council may from time to time determine and assign. Staff.

(5) The members of the Commission shall be paid such salaries or other remuneration and travelling and other disbursements and expenses as the Lieutenant-Governor in Council may authorize. 1935, c. 71, s. 11. Salaries.

11.—(1) For the purposes of this Act, the residence of any person or family shall be deemed to be the municipality or district where such person or family resided on April 1st, 1948, and in case a person or family has removed from the municipality in which such person or family was residing on April 1st, 1948, such municipality shall be liable for the direct relief of such person or family for 12 months after such removal, and after that period the municipality to which such person or family has removed shall be deemed to be the residence of such person or family and shall be liable for the direct relief of such person or family. 1935, c. 71, s. 13 (1); O. Reg. 210/50. Residence.

(2) If a person or family removes from a municipality where such person or family has residence, to another municipality in Ontario, the municipality to which such person or family has removed may claim from the municipality from which such person or family removed any amounts expended by it for the relief of such person or family during the 12 months next following the date of such removal, less such sums on account thereof which it may have received or be entitled to receive from any source other than its own taxation and the same may be recovered as a debt in any court of competent jurisdiction. Recovery between municipalities.

(3) The date and period mentioned in subsection 1 shall as to future expenditures be extended or reduced accordingly as the same may be extended or reduced by any Order in Council Future expenditures.

hereafter issued under this Act for such purpose. 1935, c. 71, s. 13 (2, 3).

Power to
take aff-
davits.

12. Every unemployment relief inspector in the employ of the Department of Public Welfare, every unemployment relief administrator in a local municipality and every person appointed by the municipal council as an assistant to the unemployment relief administrator in a city or a township bordering on a city having a population of not less than 100,000, shall for the purpose of the administration of this Act have power to take declarations and affidavits in the same manner and to the same extent as a commissioner for taking affidavits. 1938, c. 37, s. 25.

Removal
from office.

13. An unemployment relief administrator or any assistant to an unemployment relief administrator shall not be removed from such office without the approval of the Minister of Public Welfare. 1940, c. 28, s. 27.

Recovery of
relief
moneys from
estate of
deceased
recipient.

14. A municipality shall be entitled to recover without interest out of the estate of a deceased recipient of direct relief as a debt due by such recipient to the municipality the sum of the amounts expended by the municipality for the relief of such person and his family. 1939, c. 47, s. 32.

Recovery
by Province
from
muni-
cipalities of
moneys
payable.

15. Any moneys expended by the Government of Ontario which under this Act or any agreement, undertaking or arrangement, Order in Council or regulation entered into or made under this Act or confirmed and validated by *The Unemployment Relief Act, 1935*, which by the terms thereof are or should be payable or repayable to the Government of Ontario by a municipality shall be recoverable from such municipality as a debt due to the Crown in right of Ontario and may be sued for in any court of competent jurisdiction or may be deducted out of any moneys payable by the Government of Ontario to such municipality under the authority of any Act. 1935, c. 71, s. 14.

CHAPTER 404

The Unwrought Metal Sales Act**1. In this Act,**Interpre-
tation.

- (a) "licence" means licence issued by the Minister under this Act;
- (b) "licence holder" means the holder of a licence issued under this Act;
- (c) "Minister" means Minister of Mines;
- (d) "regulations" means regulations made under this Act;
- (e) "unwrought metal" means gold, silver, platinum or other precious metal,
 - (i) in bars, ingots, buttons, beads, sheets, rods or wire, or
 - (ii) in concentrates, nuggets or residues obtained in the smelting, refining or other treatment of substances containing any of such metals,

and includes ores of such metals where the value of the ore is in excess of 25 cents per pound avoirdupois weight. R.S.O. 1937, c. 52, s. 1; 1940, c. 34, s. 1, *amended*.

2. Subject to the regulations, the Minister may issue licences to buy, sell, deal in, receive or dispose of by way of barter, pledge or otherwise, unwrought metal. R.S.O. 1937, c. 52, s. 2, *amended*.

3. Every person who not being a licence holder buys, sells, deals in, receives or disposes of by way of barter, pledge or otherwise, either as principal or agent, any unwrought metal shall be guilty of an offence and on summary conviction shall, for a first offence, be liable to a penalty of not more than \$500 and in addition may be imprisoned for a term of not more than one year, and for a second or any subsequent offence, shall be liable to a penalty of not more than \$1,000 and shall be imprisoned for a term of one year. R.S.O. 1937, c. 52, s. 3.

Penalty for
sale, etc. by
unlicensed
persons.

Purchase
from un-
licensed
person
prohibited.

4. Every person who purchases or in any other manner acquires possession of unwrought metal from any person other than a licence holder shall be guilty of an offence and on summary conviction shall be liable to the penalties provided in section 3. R.S.O. 1937, c. 52, s. 4; 1940, c. 34, s. 2.

When
licence not
required.

5. Notwithstanding any other provision of this Act, no licence shall be required,

- (a) by any person purchasing unwrought metal from a licence holder in a form suitable for use in any art, profession, science or industry; or
- (b) by any person selling gold, silver, platinum or other precious metal not exceeding a total quantity of three troy ounces in any calendar month. 1940, c. 34, s. 3.

Regulations.

6. The Lieutenant-Governor in Council may make regulations,

- (a) prescribing the form of licence and the dates on which and the periods for which the licences shall be issued;
- (b) for the cancelling of licences for any breach of this Act or the regulations;
- (c) prescribing the fees payable for licences;
- (d) prescribing the conditions to be complied with by licence holders;
- (e) for the keeping of books and records by licence holders showing the particulars as to the sale and disposal of unwrought metal;
- (f) for the making up and filing of returns by licence holders containing such particulars as may be deemed necessary;
- (g) for prohibiting the carrying on of a business by a licence holder in any particular locality or for any particular period or during any stated hours of the day;
- (h) authorizing or permitting licence holders to purchase or otherwise acquire unwrought metal from persons other than licence holders who reside or have their ordinary place of business outside of Ontario, notwithstanding any of the provisions of this Act, and prescribing the terms and conditions which shall govern such purchases or other acquisitions;

- (i) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 52, s. 5; 1940, c. 34, s. 4.

- **7.** This Act shall not apply to the Department of Mines, ~~Exceptions.~~ the Provincial Assay Office at Toronto, or the Temiskaming Testing Laboratories at Cobalt, and the Minister may in writing under his hand and seal of office exempt any mining company or the proprietor or operator of any mine or any museum, university, college or other educational institution from the provisions of this Act, and may at any time cancel and revoke such exemption. R.S.O. 1937, c. 52, s. 6.
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CHAPTER 405

The Vacant Land Cultivation Act

1. The councils of local municipalities may pass by-laws,
 - (a) for granting permits to any person to enter upon, hold and use any vacant land in the municipality for the purpose only of cultivating it and raising thereon such crops as may be prescribed by the by-law or permit during such period not extending beyond the current year and on such terms and conditions as may be thought proper, and for regulating and controlling the use of such land by the holder of a permit; Permits to cultivate vacant land.
 - (b) for revoking any permit for failure to comply with the terms and conditions of the by-law or of the permit or whenever the council determines that the land is immediately required by the owner for building or manufacturing or other revenue producing purposes. R.S.O. 1937, c. 287, s. 1; 1939 (2nd Sess.), c. 12, s. 1. Revoking permit.
2. The fee for the permit shall not exceed \$1. R.S.O. 1937, c. 287, s. 2. Fee.
3. Before issuing a permit with respect to any parcel of land notice of the intention of the council to issue permits with respect to it and fixing a day for hearing any objections which he may desire to make shall be left with the owner or transmitted to him by post to the address of his residence or place of business in the municipality if he resides or has a place of business there and if he is not resident in the municipality, then by post to his last known place of residence. R.S.O. 1937, c. 287, s. 3. Hearing objections.
4. The council shall not issue a permit with respect to any parcel of land if the owner of it shows to the satisfaction of the council that it will be required by him during the current year for building or manufacturing or other revenue producing purposes. R.S.O. 1937, c. 287, s. 4. When permit not to issue.
5. No compensation shall be paid to any owner or other person interested in such land for or on account of the exercise of the powers conferred by this Act. R.S.O. 1937, c. 287, s. 5. No compensation to owner.

Compensation to holder if permit revoked.

6. If the council revokes a permit because it has determined that the land is immediately required by the owner for building or manufacturing or other revenue producing purposes, it shall pay to the holder of the permit for the loss occasioned by such revocation such compensation, not exceeding \$50 in the case of any one permit, as may be agreed upon, and in case of failure to agree, as may be determined by the magistrate, or if there is no magistrate by a justice of the peace having jurisdiction in the municipality on the application of the council or of the holder of the permit, and the fee of the magistrate or justice of the peace for determining the compensation shall be not more than \$2, of which half shall be paid by the holder and half by the corporation. R.S.O. 1937, c. 287, s. 6.

Powers of Director of Unemployment Relief.

7. The person designated by the Lieutenant-Governor in Council as Director of Unemployment Relief may exercise in any part of Ontario any of the powers conferred by this Act on the council of a local municipality and the provisions of this Act, except section 6, applicable to a council of a local municipality shall apply *mutatis mutandis* to the Director of Unemployment Relief. 1939 (2nd. Sess.), c. 12, s. 2.

CHAPTER 406

The Vaccination Act

1. The trustees, governors, directors or other officers or persons having at any time the control and management of any hospital or dispensary receiving aid from the public funds of Ontario shall keep at all times in such hospital or dispensary an adequate supply of vaccine matter, Duty of trustees, etc. of hospitals, etc., to keep vaccine matter,

- (a) for the vaccination, by a legally qualified medical practitioner attached to such hospital or dispensary, at the expense of the same, of all poor persons, and at their own expense of all other persons, who attend at such hospital or dispensary for that purpose, during one day in every week, the fee to be charged for the vaccination not in any case to exceed 50 cents, and to be used and applied for the benefit of the hospital or dispensary; for vaccination at hospital;
- (b) for furnishing, on application, to every legally qualified medical practitioner, such reasonable quantities of vaccine matter as he from time to time requires; for furnishing practitioners;
- (c) for furnishing, on application, to any superintendent of Indian Affairs such reasonable quantities of vaccine matter as he may from time to time require for the use and benefit of any settlement of Indians. R.S.O. 1937, c. 300, s. 1. for use of Indians.

2.. No warrant shall issue for the payment of any money granted by the Legislature to any hospital or dispensary, unless a certificate has been filed in the office of the Clerk of the Executive Council, signed by a medical officer of such hospital or dispensary, to the effect that there is actually on hand therein a supply of vaccine matter which is believed to be sufficient for the purposes mentioned in section 1 from the date of the certificate, or setting forth reasons in explanation of any deficiency in the supply to the satisfaction of the Lieutenant-Governor in Council, or unless a certificate so signed has been filed to the effect that at no time since the date of the then last certificate, has the demand upon such hospital or dispensary for vaccine matter for such purposes exceeded the supply in hand in such hospital or dispensary, or setting forth reasons in explanation of any deficiency in Non-payment of grant where non-compliance.

the supply, to the satisfaction of the Lieutenant-Governor in Council. R.S.O. 1937, c. 300, s. 2.

Annual statement respecting vaccination to be laid before Assembly.

3. The trustees, governors, directors or other officers or persons having for the time being the control and management of any hospital or dispensary to which aid has been granted during any session of the Legislature shall cause to be transmitted to the Provincial Secretary, in time for copies thereof to be laid before the Assembly during the first 15 days of the then next session, a statement certified by the proper officers of such hospital or dispensary showing the number of persons who have applied for and received free vaccination, the number of persons who have applied for and received vaccination at their own expense, and the number, amount and application of fees charged and received for vaccination. R.S.O. 1937, c. 300, s. 3.

Employment by municipalities of medical practitioners to vaccinate residents.

4.—(1) The corporation of every city, town, township and village shall contract with one or more legally qualified medical practitioners, for the period of one year, and so from year to year as such contract expires, for the vaccination, at the expense of the corporation, of all poor persons, and at their own expense of all other persons resident in such municipality who come to such medical practitioners for that purpose.

Remuneration to depend on success.

(2) It shall be a condition of every such contract that the amount of the remuneration to be received under the contract will depend on the number of persons who, not having been previously successfully vaccinated, are successfully vaccinated by such medical practitioners. R.S.O. 1937, c. 300, s. 4.

Powers of local board of health in default of municipality.

5.—(1) If the corporation neglects to make such contract and such neglect continues for one month after the attention of the council has been called in writing by the local board of health to such neglect, and to the powers which, in case of such neglect, it may exercise under the authority of this Act, the local board may contract with the medical officer of health of the municipality, or other legally qualified medical practitioner, to perform all the duties which may be performed by or are incumbent upon a medical practitioner under this Act if appointed or contracted with by the corporation under section 4, and the corporation shall be liable to the medical practitioner for the fees for vaccination or for duties performed to the extent provided for by this Act as if the contract had been made by or with the corporation.

Local board to appoint place and give notice.

(2) The local board of health may, unless the council has already done so, appoint the places and give the notice where

and when such vaccination will be performed, as is required by section 6 to be done by the council. R.S.O. 1937, c. 300, s. 5.

6. The council of every city and town shall appoint a convenient place in each ward, and the council of every township and village shall appoint a convenient place therein for the performance, at least once in each month, of such vaccination, and shall take effectual means for giving, from time to time, to all persons resident within each ward or within the township or village due notice of the days, hours and place at which the medical practitioner or one of the medical practitioners contracted with for such purpose will attend to vaccinate all persons not successfully vaccinated who may then appear there, and also of the days, hours and place at which such medical practitioner will attend to inspect the progress of such vaccination in the persons so vaccinated. R.S.O. 1937, c. 300, s. 6.

Municipalities to appoint convenient places for performance of vaccination.

7.—(1) The father and mother of every child born in such city, town, township, or village shall, at some appointed time within three months after the birth of the child, or in the event of the death, illness, absence or inability of the father and mother, then the person who has the care, nurture or custody of the child, shall at some appointed time within four months after the birth of the child, take or cause to be taken the child to the medical practitioner in attendance at the appointed place, according to the provisions of the preceding sections, for the purpose of being vaccinated, unless the child has been previously vaccinated by a legally qualified medical practitioner and the vaccination has been duly certified, and the medical practitioner so appointed shall thereupon, or as soon after as it can conveniently and properly be done, vaccinate the child.

Parents, etc., bound to take children to be vaccinated.

(2) On the eighth day following the day on which any child has been so vaccinated, the father or mother, or other person having the care, nurture or custody of the child, shall again take or cause to be taken the child to the medical practitioner by whom the operation was performed, or the other medical practitioner in attendance, in order that he may ascertain by inspection the result of the operation.

To exhibit them to the medical practitioner on eighth day.

(3) Immediately after the successful vaccination of a child born in any city, town, township or village, the medical practitioner who performed the operation shall deliver to the father or mother, or other person having the care, nurture or custody of the child, a certificate under his hand (Form 1) that the child has been successfully vaccinated, and shall transmit a duplicate of the certificate to the clerk of the municipality in which the operation was performed.

Certificate of successful vaccination to be given.

What to be
evidence.

(4) Such certificate shall, without further proof, be admissible as evidence of the successful vaccination of the child in any information or complaint brought against the father or mother, or the person who had the care, nurture or custody of the child, for non-compliance with the provisions of this Act.

Certificate
where child
found unfit
for vacci-
nation.

(5) If the medical practitioner is of opinion that a child brought to him is not in a fit and proper state to be successfully vaccinated, he shall deliver to the father or mother of the child, or the person having the care, nurture or custody of the child, on demand and without fee, a certificate under his hand (Form 2) that the child is in an unfit state for successful vaccination.

How long to
be in force.

(6) Such certificate or a similar certificate of a legally qualified medical practitioner shall remain in force for two months from its delivery, and the father or mother, or the person having the care, nurture or custody of the child, unless within each succeeding period of two months a renewal of such certificate has been obtained from a legally qualified medical practitioner, shall, within two months after the delivery of the certificate, and if the child is not vaccinated by the termination of such period, then during each succeeding period of two months until the child has been successfully vaccinated, take or cause to be taken to the medical practitioner so appointed, the child to be vaccinated by him.

Vaccination
and
certificate
thereof.

(7) If the medical practitioner deems the child to be then in a fit and proper state for successful vaccination, he shall forthwith vaccinate the child, and shall immediately after the successful vaccination of the child deliver to the father or mother, or the person having the care, nurture or custody of the child, a certificate under his hand (Form 1) that the child has been successfully vaccinated.

Certificate
of unfitness
for vaccina-
tion on
re-examina-
tion.

(8) If the medical practitioner is of opinion that the child is still in an unfit state for successful vaccination, he shall again deliver to the father or mother, or to the person having the care, nurture or custody of the child, a certificate under his hand (Form 2) that the child is still in an unfit state for successful vaccination, and the medical practitioner, so long as the child remains in an unfit state for vaccination and unvaccinated, shall, at the expiration of every succeeding period of two months, deliver, if required, to the father or mother, or to the person having the care, nurture or custody of the child, a fresh certificate under his hand (Form 2).

Effect of
certificate.

(9) The production of such certificate or a similar certificate from a legally qualified medical practitioner shall be a sufficient defence against any complaint brought against the father or

mother, or person having the care, nurture or custody of such child, for non-compliance with the provisions of this Act.

(10) If a medical practitioner employed under this Act, or any other duly qualified medical practitioner, is of opinion that any child vaccinated by him is insusceptible of the vaccine disease, he shall deliver to the father or mother, or to the person having the care, nurture or custody of the child, a certificate under his hand (Form 3) and the production of the certificate shall be a sufficient defence against any complaint which may be brought against the father or mother, or person having the care, nurture or custody of the child, for non-compliance with the provisions of this Act.

If the child is found insusceptible of vaccine disease.

(11) This section shall also apply to all children over the age of three months who become resident in a municipality, and such children shall, for the purposes of this section, be considered as children born in the municipality at the date on which they became resident within it. R.S.O. 1937, c. 300, s. 7.

Children brought into municipality.

8. In all contracts made under this Act the sums contracted to be paid shall not be more than 25 cents for each person successfully vaccinated, including all or any of the certificates required by this Act. R.S.O. 1937, c. 300, s. 8.

Fees under this Act.

9. Every father or mother or person having the care, nurture or custody of a child who does not cause the child to be vaccinated within the periods prescribed by this Act, or who does not, on the eighth day after the vaccination has been performed, take or cause to be taken the child for inspection according to this Act, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$5. R.S.O. 1937, c. 300, ss. 9, 15.

Penalty.

10.—(1) After the expiration of two months from the conviction of any person for an offence against this Act in respect of any child, no plea of such conviction shall be a sufficient defence against any complaint which may then be brought against the same or any other person for non-compliance with the provisions of this Act in respect of the same child.

How far and when plea of conviction shall avail.

(2) The production of a certificate (Form 1 or 3) under the hand of a legally qualified medical practitioner, shall be a sufficient defence against such complaint, but the production of a certificate (Form 2) shall not be a sufficient defence unless the vaccination is thereby postponed to a day subsequent to that on which the complaint is brought. R.S.O. 1937, c. 300, s. 10.

Production of certificates in defence.

Enforcing
vaccination.

11.—(1) In every municipality where smallpox exists, or in which the Department of Health or local board of health has notified the council that in its opinion there is danger of its breaking out owing to the facility of communication with infected localities, the council of the municipality shall order the vaccination or re-vaccination of all persons resident in the municipality who have not been vaccinated within seven years, and that such vaccination or re-vaccination shall be carried out in so far as the same may be applicable in the same manner as the vaccination of children, except that a person of 14 years of age or over, but under the age of 21 years, who is not in the custody or under the control of his father or mother or of any other person, and every person of 21 years or over, shall present himself for vaccination by the medical practitioner, or by some other legally qualified medical practitioner, and the medical practitioner shall adopt the same measures to secure the vaccination or re-vaccination of every such person as he is required to take with regard to children.

Proclama-
tion by
head of
municipi-
pality.

(2) A proclamation issued by the head of the municipality, and published in posters and in at least one newspaper published within the municipality, or, if there is no such newspaper, in at least one newspaper published in the county or district in which such municipality is situate, warning the public that this section is in force, shall be sufficient evidence to justify the conviction of any person who has failed to comply with the law within a period of seven days from the publication of the proclamation.

Penalty for
neglect by
member of
municipi-
pality.

(3) Every member of a municipal council which neglects or refuses to make the order required by subsection 1 or to make proper provision for carrying the order into effect, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25, unless he proves that he did everything in his power to secure the making of the order or the making of proper provision for carrying any such order into effect, and causes his protest against such refusal or neglect to be recorded in the proceedings of the council.

By head of
municipi-
pality.

(4) If the head of a municipality neglects or refuses to issue and publish the proclamation required by subsection 2, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25.

Penalty for
neglect to
obey order
of council.

(5) Every person who wilfully neglects or refuses to obey the order of the council shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25. R.S.O. 1937, c. 300, ss. 11, 15.

Vaccina-
tion of
pupils and
students.

12.—(1) Where it is deemed necessary by the medical officer of health of any municipality, owing to the presence

or threatened presence of smallpox, he may, with the approval of the local board of health, require certificates of successful vaccination or of insusceptibility on re-vaccination within seven years, of all pupils or students of a public, separate, continuation or high school or collegiate institute, and of a college or university, or of any other public or private institution of learning within the municipality, to be presented to the proper authorities of the institution, and no pupil or student refusing to produce such certificate on demand shall be admitted to further attendance in the institution until the certificate is furnished.

(2) Every principal, teacher, superintendent or officer of any such institution who commits or is party or privy to any contravention of subsection 1 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20. R.S.O. 1937, c. 300, ss. 12, 15. ^{Penalty.}

13. Every person who by inoculation with or by wilful exposure to variolous matter or by any matter, article or thing impregnated with variolous matter, or wilfully by any other means produces or attempts to produce the disease of smallpox in any person, shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a term of not more than one year. R.S.O. 1937, c. 300, ss. 13, 15. ^{Penalty for inoculating with variolous matter.}

14. If a legally qualified medical practitioner is convicted of an offence against section 13 his name shall be erased from the register of the College of Physicians and Surgeons of Ontario, but the medical council at any time after the expiration of the term of imprisonment of any such person may restore his name to the register. R.S.O. 1937, c. 300, s. 14. ^{Erasure from register of College.}

FORM 1

(Sections 7 and 10)

CERTIFICATE OF VACCINATION

I, the undersigned, a legally qualified medical practitioner, hereby certify that the child of, aged, of Ward, in the City of (or as the case may be), has been successfully vaccinated by me.

Dated this day of, 19.....

A.B.

R.S.O. 1937, c. 300, Form 1.

FORM 2

(Sections 7 and 10)

CERTIFICATE OF UNFITNESS FOR VACCINATION

I, the undersigned, a legally qualified medical practitioner, hereby certify that I am of opinion that, the child of, of Ward, in the City of (*or as the case may be*), aged, is not now in a fit and proper state to be successfully vaccinated, and I do hereby postpone the vaccination until the day of

Dated this day of, 19.....

A.B.

R.S.O. 1937, c. 300, Form 2.

FORM 3

(Sections 7 and 10)

CERTIFICATE OF INSUSCEPTIBILITY TO VACCINE DISEASE

I, the undersigned, a legally qualified medical practitioner, hereby certify that I am of opinion that, the child of, of Ward, in the City of (*or as the case may be*), is insusceptible of the vaccine disease.

Dated this day of, 19.....

A.B.

R.S.O. 1937, c. 300, Form 3.

CHAPTER 407

The Vendors and Purchasers Act

1. In the completion of a contract of sale of land the rights and obligations of the vendor and the purchaser shall, subject to any stipulation to the contrary in the contract, be regulated by the following rules:

Rights of vendors and purchasers in contracts of sale of lands.

- (a) Recitals, statements and descriptions of facts, matters and parties contained in statutes, deeds, instruments or statutory declarations 20 years old at the date of the contract, unless and except in so far as they are proved to be inaccurate, shall be sufficient evidence of the truth of such facts, matters and descriptions.
- Recitals, etc., 20 years old, of facts, etc., prima facie evidence.
- (b) A registered memorial of a discharged mortgage shall be sufficient evidence of the mortgage without the production of the mortgage, unless and except in so far as the memorial is proved to be inaccurate, and the vendor shall not be bound to produce the mortgage unless it is in his possession or power.
- Memorials of discharged mortgages.
- (c) A registered memorial 20 years old of any other instrument, if the memorial purports to be executed by the grantor, or in other cases if possession has been consistent with the registered title, shall be sufficient evidence without the production of the instrument to which the memorial relates, unless and except in so far as the memorial is proved to be inaccurate, and the vendor shall not be bound to produce the original instrument unless it is in his possession or power, and the memorial shall be presumed to contain all the material contents of the instrument to which it relates.
- Memorials 20 years old, when, and of what, evidence.
- (d) The inability of the vendor to furnish the purchaser with a legal covenant to produce and furnish copies of documents of title, shall not be an objection to the title if the purchaser will, on the completion of the contract, have an equitable right to the production of such documents. R.S.O. 1937, c. 168, s. 1.
- Inability to furnish covenant to produce and furnish documents of title.

2. In an action it shall not be necessary to produce any evidence which by section 1 is dispensed with as between

Evidence in actions.

vendor and purchaser, and the evidence therein declared to be sufficient as between vendor and purchaser shall *prima facie* be sufficient for the purposes of the action. R.S.O. 1937, c. 168, s. 2.

Summary applications to Supreme Court in respect to requisitions, objections or compensation, etc.

3. A vendor or purchaser of real or leasehold estate or his representative may, at any time and from time to time, apply in a summary way to the Supreme Court or a judge thereof in respect of any requisition or objection or any claim for compensation, or any other question arising out of or connected with the contract, except a question affecting the existence or validity of the contract, and the court or judge may make such order upon the application as appears just, and refer any question to a master or other officer for inquiry and report. R.S.O. 1937, c. 168, s. 3.

Terms of agreement of sale and purchase.

4. Every contract for the sale and purchase of land shall, unless otherwise stipulated, be deemed to provide that,

- (a) the vendor shall not be bound to produce any abstract of title, deed, copies of deeds or other evidence of title except such as are in his possession or control;
- (b) the purchaser shall search the title at his own expense and shall make his objections thereto in writing within 30 days from the making of the contract;
- (c) the vendor shall have 30 days in which to remove any objection made to the title, but if he is unable or unwilling to remove any objection which the purchaser is not willing to waive, he may cancel the contract and return any deposit made but shall not be otherwise liable to the purchaser;
- (d) taxes, local improvement rates, insurance premiums, rents and interest, shall be adjusted as at the date of closing;
- (e) the conveyance shall be prepared by the vendor and the mortgage, if any, by the purchaser and the purchaser shall bear the expense of registration of the deed and the vendor shall bear the expense of the registration of the mortgage if any;
- (f) the purchaser shall be entitled to possession or the receipt of rents and profits upon the closing of the transaction. R.S.O. 1937, c. 168, s. 4.

CHAPTER 408

The Venereal Diseases Prevention Act

1. In this Act,

Interpre-
tation,

- (a) "medical officer of health" means medical officer of health appointed under *The Public Health Act*;
- (b) "Minister" means Minister of Health;
- (c) "place of detention" means hospital, sanatorium, jail, lock-up, reformatory, Ontario training school, industrial farm, industrial refuge or any place designated as a place of detention by the Lieutenant-Governor in Council but does not include an isolation hospital for the care of communicable diseases, other than venereal disease, as defined by *The Public Health Act*;
- (d) "physician" means a legally qualified medical practitioner;
- (e) "prescribed" means prescribed by the regulations;
- (f) "regulations" means regulations made under this Act or *The Public Health Act*;
- (g) "venereal disease" means syphilis, gonorrhoea or chancroid. 1942, c. 38, s. 1.

Rev. Stat.,
c. 306.

2.—(1) Every person infected with venereal disease upon becoming aware or suspecting that he is so infected shall place himself forthwith under the care and treatment of a physician, and if unable to obtain such care or treatment he shall apply to the medical officer of health for the place in which he is ordinarily or temporarily resident. 1942, c. 38, s. 2 (1); 1946, c. 103, s. 1 (1).

Infected
person to
submit to
treatment.

(2) Every such person shall conduct himself in such a manner as not to expose other persons to the danger of infection, and shall take and continue treatment in a manner and to an extent considered to be adequate by the attending physician and the Minister. 1942, c. 38, s. 2 (2); 1946, c. 103, s. 1 (2).

Idem.

3.—(1) It shall be the duty of,

Duty to
report,

- (a) every physician;

- (b) every superintendent or head of a hospital, sanatorium or laboratory; and
- (c) every person in medical charge of any jail, lock-up, reformatory, industrial farm, training school, school or college, industrial, female or other refuge, or other similar institution,

to report to the Minister every case of venereal disease coming under his diagnosis, treatment, care or charge for the first time.

within
24 hours.

(2) The report in the prescribed form shall be completed and forwarded to the Minister within 24 hours after the first diagnosis, treatment or knowledge by or of such physician, head or other person. 1942, c. 38, s. 3.

Action
m.o.h. on
reasonable
belief.

4.—(1) Where a medical officer of health has reasonable grounds for believing that a person within the municipality is or may be infected with venereal disease or has been exposed to infection, the medical officer of health may give notice in writing in the prescribed form to such person directing him to submit to an examination by a physician designated by or satisfactory to the medical officer of health, and to procure and produce to the medical officer of health within the time specified in the notice, a report or certificate of the physician that such person is or is not infected with venereal disease. 1942, c. 38, s. 4 (1).

Penalty.

(2) Every person who without reasonable excuse, the proof of which shall be upon him, fails to comply with a direction made under subsection 1 shall be guilty of an offence and liable to imprisonment for a term of not less than seven days and not more than twelve months. 1942, c. 38, s. 4 (2); 1943, c. 35, s. 1.

Powers of
m.o.h. on
report.

(3) If by the report or certificate mentioned in subsection 1, it appears that the person so notified is infected with venereal disease, the medical officer of health may,

- (a) deliver to such person directions in the prescribed form as to the course of conduct to be pursued and may require such person to produce from time to time evidence satisfactory to the medical officer of health that he is undergoing adequate medical treatment and is in other respects carrying out such directions, and where such person fails to comply with the course of conduct prescribed for him or to produce the evidence required, the medical officer of health may exercise all the powers vested in him by clause b or may proceed under section 6; or

- (b) with the approval of the Minister, order in writing that such person be removed and detained in a place of detention for the prescribed treatment until such time as the medical officer of health is satisfied that an adequate degree of treatment has been attained.

(4) Where a medical officer of health makes an order under clause *b* of subsection 3 he shall deliver the order to a peace officer who shall thereupon take the person named in the order into his custody and remove him to the place of detention named in the order, and the person for the time being in charge of the place of detention, upon receiving the order, shall receive such person and shall detain him until he is authorized by the medical officer of health to release him.

Duties of peace officer on order of m.o.h.

(5) A medical officer of health may adopt the procedure or do any of the acts referred to in subsection 3 with regard to any person who has been examined by a physician at any time within one year previously and has been certified by such physician to be infected with syphilis.

Where person certified within one year.

(6) A medical officer of health may require a person whom he believes may be infected with venereal disease to undergo more than one examination in order to determine the presence or absence of such infection. 1942, c. 38, s. 4 (3-6).

More than one examination may be required.

5.—(1) Where,

- (a) any person has been named under oath as a source or contact of gonorrhoea infection or is believed by the medical officer of health to be a source or contact of such infection; and
- (b) in the opinion of the medical officer of health the clinical findings and history of such person indicate that such person is or may be infected with gonorrhoea,

Authority of medical officer of health.

the medical officer of health may, whether or not laboratory findings indicate the presence of gonorrhoea infection, proceed in the manner prescribed in clauses *a* and *b* of subsection 3 of section 4. 1943, c. 35, s. 2, *part*; 1946, c. 103, s. 2.

(2) For the purposes of subsection 1, a medical officer of health may administer an oath and take a statement under oath. 1943, c. 35, s. 2, *part*.

Medical officer of health may take statement under oath.

6.—(1) Any medical officer of health may make a complaint or lay an information in writing and under oath before a justice of the peace charging that the circumstances set out in clause *a* or *b* of subsection 5 exist with regard to any person named in such complaint or information. 1942, c. 38, s. 5 (1); 1943, c. 35, s. 3 (1).

Information or complaint.

Issue of
summons.

(2) Upon receiving any such complaint or information the justice of the peace shall hear and consider the allegations of the complainant, and if he considers it desirable or necessary the evidence of any witness or witnesses, and if he is of the opinion that a case for so doing is made out he shall issue a summons directed to the person complained of requiring him to appear before a magistrate at a time and place named therein.

Issue of
warrant.

(3) Where a person to whom a summons is directed does not appear at the time and place named therein, or where it appears that a summons cannot be served, a magistrate may issue a warrant directing that the person named in the summons be brought before him.

Magistrate's
inquiry.

(4) Where a person appears or is brought before a magistrate under this section the magistrate shall inquire into the truth of the matters charged in the complaint or information and for such purpose shall proceed in the manner prescribed by *The Summary Convictions Act* and shall have the powers of a magistrate holding a hearing under that Act. 1942, c. 38, s. 5 (2-4).

Rev. Stat.,
c. 379.

Order for
detention.

(5) Where a magistrate finds that any person,

(a) is infected with a venereal disease and is unwilling or unable to conduct himself in such a manner as not to expose other persons to the danger of infection; or

(b) is infected with a venereal disease and refuses or neglects to take or continue treatment as required by this Act and the regulations,

he shall order that such person be admitted to and detained in a place of detention for such period not exceeding one year as the magistrate may deem necessary. 1943, c. 35, s. 3 (2).

Laboratory
certificate
prima facie
evidence.

(6) In any inquiry under this section a certificate as to the result of any test made, signed or purporting to be signed by the director of a laboratory approved by the Minister shall be *prima facie* evidence of the facts stated therein and of the authority of the person giving such certificate without any proof of appointment or signature.

Extension
of detention.

(7) Any person detained under this section may, with the approval in writing of the Minister, be brought before a magistrate at any time during the last 30 days of the period for which he is so detained, and if the magistrate finds that he is still infected with venereal disease and in need of further treatment, he may order that such person be further detained for such period not exceeding one year as the magistrate may deem necessary.

(8) Where the Minister is of the opinion that any person detained under this section is no longer infected with venereal disease or has received an adequate degree of treatment, he may direct the discharge of such person. 1942, c. 38, s. 5 (6-8).

Discharge by Minister.

7.—(1) Where any physician in medical charge of any jail, lock-up, reformatory, industrial farm, training school, or industrial, female or other refuge has reason to believe that any person under his charge may be infected with venereal disease or has been exposed to infection with venereal disease, he may, and if he is directed by the medical officer of health, he shall cause such person to undergo such examination as may be necessary to ascertain whether or not he is infected with venereal disease or to ascertain the extent of venereal disease infection and if the examination discloses that he is so infected the physician shall report the facts to the medical officer of health who may thereupon exercise the powers vested in him by section 9.

Examination by physician in charge of institution.

(2) Where an examination has not been made under this section every physician in medical charge of any jail, lock-up, reformatory, industrial farm, training school, or industrial, female or other refuge shall report to the medical officer of health the name and place of confinement of any person under his charge whom he suspects or believes to be infected with venereal disease and the report shall be made within 24 hours after he suspects or believes such person to be so infected.

Duty of physician in charge of institution.

(3) A copy or statement of every report made under this section shall be forwarded to the Minister and to the medical officer of health of the municipality in which such person resided before being admitted to such institution by the physician making the report. 1942, c. 38, s. 6.

Duplicate report.

8. When a medical officer of health believes that any person under arrest or in custody, whether awaiting trial for any offence under or violation of any statute of Canada or of the Legislature or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction of any such offence or violation, has been or may be infected or has been exposed to infection with venereal disease, he may cause such person to undergo such examination as may be necessary in order to ascertain whether or not such person is infected with venereal disease or to ascertain the extent of infection with venereal disease, and may direct that such person shall remain in custody until the results of the examination are known. 1942, c. 38, s. 7.

Examination of person in custody or committed to prison.

Treatment
where
disease
found to
exist.

9. Where any person under arrest or in custody, whether awaiting trial for any offence under or violation of any statute of Canada or of the Legislature or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction of any such offence or violation, is found to be infected with venereal disease the medical officer of health may by order in writing direct that such person undergo treatment therefor and that such action be taken as the medical officer of health or the Minister may deem advisable for his isolation and the prevention of infection by him, and that he be detained in custody until cured or until he has received a degree of treatment considered adequate by the attending physician and the Minister notwithstanding that he may be otherwise entitled to be released, and any order made under this section shall be sufficient warrant to the person to whom the order is addressed to carry out the terms thereof. 1942, c. 38, s. 8.

Physician
to report
person
refusing to
continue
treatment.

10.—(1) Where a person who has been under treatment for venereal disease refuses or neglects to continue treatment in a manner and to a degree satisfactory to the attending physician and the Minister, the physician shall report to the Minister the name and address of such person together with such other information as may be required by the regulations. 1942, c. 38, s. 9 (1).

Failure
to attend
within
seven days.

(2) A person who fails to attend upon his physician within seven days of an appointment for treatment shall be presumed to have neglected to continue treatment and the attending physician shall report such failure in writing to the Minister and the medical officer of health within fourteen days of the appointment. 1942, c. 38, s. 9 (2); 1946, c. 103, s. 3.

Penalty.

(3) A physician who fails to report as required by this section shall be guilty of an offence and liable to a penalty of not less than \$25 and not more than \$100. 1942, c. 38, s. 9 (3).

Supply of
drugs, etc.,
by unqual-
ified persons
prohibited.

11.—(1) No person other than a physician shall attend upon or prescribe for or supply or offer to supply any drug, medicine, appliance or treatment to or for a person suffering from venereal disease for the purpose of the alleviation or cure of such disease.

Penalty.

(2) Every person who contravenes subsection 1 shall be guilty of an offence and liable to a penalty of not less than \$100 and not more than \$500 and in default of immediate payment shall be imprisoned for a term of not more than twelve months.

Exception
as to
chemists.

(3) Subsection 1 shall not apply to a registered pharmaceutical chemist who dispenses to a patient of a physician

upon a written prescription signed by such physician or who sells to any person any patent, proprietary or other medicine, drug or appliance approved by the regulations for the cure or alleviation of venereal disease provided that no prescription shall be filled more than once except upon the written direction of the prescribing physician. 1942, c. 38, s. 10.

12.—(1) Every person who,

Offences.

- (a) wilfully neglects or disobeys any order or direction given by a medical officer of health or the Minister or Deputy Minister under this Act or the regulations;
- (b) hinders, delays or obstructs any medical officer of health, peace officer or other person acting in the performance of his duties under this Act;
- (c) publishes any proceedings taken under this Act or the regulations contrary to subsection 2;
- (d) wilfully represents himself as bearing some other name than his own or makes any false statements as to his ordinary place of residence during the course of his treatment for any venereal disease with the purpose of concealing his identity;
- (e) during the course of his treatment for any venereal disease changes his place of residence without giving due notice of such proposed change with his new address to the attending physician; or
- (f) fails to comply with any of the provisions of this Act or the regulations,

shall be guilty of an offence, and where no other penalty is prescribed, shall be liable to a penalty of not less than \$25 and not more than \$100 and in default of immediate payment shall be imprisoned for a term of not more than three months. 1942, c. 38, s. 11 (1); 1946, c. 103, s. 4 (1).

(2) *The Summary Convictions Act* shall apply to prosecutions under this Act or the regulations but all proceedings for the recovery of penalties under this Act and proceedings authorized by section 6 shall be conducted *in camera* and no person shall publish or disclose any such proceedings except under the authority of this Act or the regulations. 1942, c. 38, s. 11 (2).

Prosecu-
tions.
Rev. Stat.,
c. 379.

(3) Notwithstanding the provisions of *The Summary Convictions Act*, service of any summons issued for a violation of this Act may be effected by personal service. 1946, c. 103, s. 4 (2).

Summons
by personal
service.

Statements
as to
existence
of disease.

13.—(1) Every person who publicly or privately, verbally or in writing, directly or indirectly, states or intimates that any other person has been notified or examined or otherwise dealt with under this Act, whether such statement or intimation is or is not true, shall be guilty of an offence, and in addition to any other penalty or liability, shall be liable to a penalty of \$200 and in default of immediate payment shall be imprisoned for a term of not more than six months.

Exceptions.

(2) Subsection 1 shall not apply,

(a) to a communication or disclosure made in good faith,

(i) to the Minister or Deputy Minister of Health,

(ii) to a medical officer of health for his information in carrying out the provisions of this Act,

(iii) to a physician,

(iv) in the course of consultation for treatment for venereal disease,

(v) to the superintendent or head of any place of detention;

(b) to any evidence given in any judicial proceedings of facts relevant to the issue; or

(c) to any communication authorized or required to be made by this Act or the regulations.

Information
to family.

(3) Notwithstanding subsection 1 a physician may give information concerning the patient to other members of the patient's family for the protection of health. 1942, c. 38, s. 12.

Obligation
to observe
secrecy.

14. Every person engaged in the administration of this Act shall preserve secrecy with regard to all matters which may come to his knowledge in the course of such employment and shall not communicate any such matter to any other person except in the performance of his duties under this Act or when instructed to do so by a medical officer of health or the Minister and in default he shall in addition to any other penalty forfeit his office or be dismissed from his employment. 1942, c. 38, s. 13.

Laboratory
reports.

15. No person shall issue or make available to any person other than a physician or such persons as are engaged in the administration of this Act any laboratory report either in whole or in part of an examination made to determine the presence or absence of venereal disease. 1942, c. 38, s. 14.

Hospitals
to make
provision
for treat-
ment, etc.

16. Every hospital receiving aid from Ontario, except isolation hospitals for the care of communicable diseases as defined by *The Public Health Act* shall make adequate provision for the reception, examination and treatment, upon such

Rev. Stat.,
c. 306.

terms as may be prescribed, of such persons or classes of persons infected with venereal disease as may by this Act or the regulations be required or permitted to be treated at such hospital and in case of default the Treasurer of Ontario may withhold from any hospital the whole or any part of any grant or subsidy which would otherwise be payable. 1942, c. 38, s. 15.

17. The medical officer of health of each municipality shall make provision for the adequate treatment of all persons infected with venereal disease within such municipality when such persons apply or are referred to him or when requested to do so by the Minister. 1942, c. 38, s. 16.

M.o.h. to make provision for treatment.

18.—(1) The treasurer of the municipality shall forthwith upon demand, pay the amount of any account for services performed, materials or supplies furnished, or any expenditure incurred under the direction of the medical officer of health in carrying out the provisions of this Act and the regulations. 1942, c. 38, s. 17 (1).

Payment of expenses by municipalities.

(2) The name of any person infected or suspected to be infected with any venereal disease shall not appear on any account in connection with treatment therefor, but the case shall be designated by a number and it shall be the duty of every local board of health to see that secrecy is preserved. 1942, c. 38, s. 17 (2); 1946, c. 103, s. 5.

Secrecy as to name.

(3) Every person who contravenes the provisions of subsection 2 shall be guilty of an offence and liable to the penalties provided by sections 13 and 14. 1942, c. 38, s. 17 (3).

Penalty.

19. Where any direction or order of a medical officer of health or magistrate involves the transfer of a person infected with venereal disease from one municipality to another municipality,

Transfer to other municipality.

(a) the medical officer of health of the second municipality shall, upon such transfer being effected and until the return of such person to the first municipality, exercise all the powers and perform all the duties conferred or imposed by this Act or the regulations upon a medical officer of health with respect to such person;

(b) the liability of the first municipality under section 18 shall extend to any account for services performed, materials or supplies furnished, or any expenditure incurred in respect of such person under the direction of the medical officer of health for the second municipality in carrying out the provisions of this Act and the regulations; and

- (c) a duplicate original of every written report made by the person in medical charge of a place of detention in which such person is placed in the second municipality to the medical officer of health thereof shall be sent forthwith to the medical officer of health of the first municipality. 1942, c. 38, s. 18.

Places of
detention,
mainten-
ance,
conduct.

20. Where a person is admitted to a place of detention under this Act, whether such admission is voluntary or under the order of a magistrate or medical officer of health,

- (a) subject to the regulations, the provisions of law relating to the liability for and payment of maintenance of patients, inmates or pupils in such place of detention shall apply; and
- (b) such person shall be subject to all rules, regulations and provisions of law governing the conduct of patients, inmates or pupils of such place of detention. 1942, c. 38, s. 19.

Where
person
infected
is under
16 years
of age.

21. Where any person infected or believed to be infected with venereal disease is a child under the age of 16 years all notices, directions or orders required or authorized by this Act or by the regulations to be given in respect of the child shall be given to the father or mother or to the person having the custody of the child for the time being and it shall be the duty of the father, mother or other person to see that the child complies in every respect with every such notice, order or direction and in default thereof the father, mother or other person, as the case may be, shall be liable to the penalties provided by this Act or the regulations for non-compliance with any such notice, direction or order unless on any prosecution in that behalf it is proven to the satisfaction of the court that the father, mother or other person did everything in his power to cause the child to comply therewith. 1942, c. 38, s. 20; 1946, c. 103, s. 6.

Grants.

22. The Minister may make grants out of such moneys as may be appropriated by the Legislature for the purpose,

- (a) for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the hospitalization, maintenance, treatment and special treatment of persons infected or suspected of being infected with venereal disease in addition to or in lieu of any other moneys which may be payable for such purposes; and
- (b) so as to reimburse municipalities for expenses incurred by such municipalities in supplying treat-

ment to persons infected or suspected of being infected with venereal disease,

in such amounts, at such times and upon such conditions as may be prescribed by the regulations. 1950, c. 86, s. 1.

23.—(1) The Lieutenant-Governor in Council may make ^{Regulations.} regulations,

- (a) prescribing the method and extent of the examination of any person for the purpose of ascertaining whether or not such person is infected with venereal disease or the extent of the infection;
- (b) prescribing the course of conduct to be pursued by any person infected with venereal disease in order to effect a cure and to prevent the infection of other persons;
- (c) prescribing the hospitals which shall furnish treatment to persons or any classes of persons infected with venereal disease;
- (d) prescribing rules for the treatment of persons infected with venereal disease in hospitals, places of detention and other places;
- (e) for preventing the spread of infection from persons suffering from venereal disease;
- (f) for distributing to physicians and hospitals information as to the treatment, diet and care of persons infected with venereal disease and requiring physicians and hospitals to distribute the information to such persons;
- (g) providing for the approval by the Minister of methods and remedies for the treatment, alleviation and cure of venereal disease;
- (h) providing for the display of notices and placards dealing with venereal disease, its cause, manifestation, treatment and cure;
- (i) prescribing the forms of notices, certificates and reports required or authorized to be given or issued under this Act;
- (j) requiring every physician to furnish reports with respect to the condition and treatment of persons infected with venereal disease who are or who have been under his diagnosis, treatment, care or charge;
- (k) prescribing the procedure to be followed and the evidence required in case of an appeal to the Minister

from any action or decision of a medical officer of health under this Act;

- (l) approving patent, proprietary or other medicines, drugs or appliances for the cure or alleviation of venereal disease;
- (m) providing for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the treatment of persons infected or suspected of being infected with venereal disease;
- (n) requiring the approval of the Minister to the appointment of duly qualified medical practitioners, nurses and other technical staff employed in clinics for the treatment of venereal disease;
- (o) prescribing the amounts of, the times at which and the conditions upon which grants may be made for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the hospitalization, maintenance, treatment and special treatment of persons infected or suspected of being infected with venereal disease and for reimbursing municipalities for expenses incurred by such municipalities in supplying treatment to persons infected or suspected of being infected with venereal disease;
- (p) prescribing fees which shall be paid under this Act;
- (q) prescribing the mode of sending or giving any notice, report or direction required or permitted to be sent or given by this Act or the regulations;
- (r) generally for the better carrying out of the provisions of this Act and for the prevention, treatment and cure of venereal disease. 1942, c. 38, s. 21 (1); 1950, c. 87, s. 2.

Expenses
of free dis-
tribution.

(2) The Minister may, out of any moneys appropriated by the Legislature for the purposes of this Act, provide for the payment of the expenses incurred in carrying out this Act and the regulations including the manufacture and free distribution to local boards of health, physicians and hospitals of any drug, medicine, appliance or instrument which the Minister may deem useful or necessary for the alleviation, treatment or cure of venereal disease or the prevention of infection therewith. 1942, c. 38, s. 21 (2); 1943, c. 35, s. 4.

Appeal to
Minister.

24.—(1) Every person who deems himself aggrieved by any action or decision of a medical officer of health under this

Act may appeal therefrom to the Minister by giving notice in writing to the Minister and to the medical officer of health.

(2) The Minister may require the appellant to furnish such information and evidence and to submit to such examination as may be prescribed or as the Minister may deem necessary to determine the matter in dispute. Evidence on appeal.

(3) The decision of the Minister shall be final. 1942, c. 38, s. 22. Decision final.

25. No action or other proceeding shall be brought against any physician in respect of any examination or certificate given or required to be given by him under this Act, without the consent in writing of the Minister. 1942, c. 38, s. 23. Actions.

26. The medical officer of health or a physician designated by him in writing for the purpose may enter in and upon any house, outhouse or premises in the day time for the purpose of making inquiry and examination with respect to the state of the health of any person therein and may cause any person found therein who is infected with any venereal disease to be removed to a place of detention or may give such directions as may prevent other persons in the same house, outhouse or premises from being infected. 1942, c. 38, s. 24. Right of entry.

27. The Deputy Minister of Health and any officer of the Department designated by the Minister shall be medical officers of health for Ontario within the meaning of this Act. 1942, c. 38, s. 25. Powers of Deputy Minister.

28. The Minister may delegate to the Deputy Minister of Health or any other officer of the Department of Health any of the powers vested in him under this Act or the regulations. 1942, c. 38, s. 26. Delegation of powers.

29. The administration of this Act and the regulations shall not interfere with the course of justice in the case of any person under arrest or in custody previous to trial for any offence under or violation of any statute of Canada or of the Legislature or any regulation, by-law or order made thereunder, provided that where it is necessary for the purpose of any examination authorized or required by this Act, such person may be held in custody until the results of the examination are known. 1942, c. 38, s. 27. Administration of Act not to interfere with course of justice.

CHAPTER 409

The Veterinary Science Practice Act

1. In this Act,

Interpre-
tation.

- (a) "Association" means Ontario Veterinary Association;
- (b) "Board" means Veterinary Practice Board;
- (c) "Minister" means Minister of Agriculture;
- (d) "registrar" means Registrar of the Ontario Veterinary Association;
- (e) "regulations" means regulations made under this Act;
- (f) "veterinary science" means the application of medicine or surgery to the ailments of any kind of live stock or domestic animals except for the purpose of parturition, castration and dehorning. R.S.O. 1937, c. 239, s. 1; 1943, c. 36, s. 1.

2. All persons duly qualified and registered under this Act to practise veterinary science shall constitute the Ontario Veterinary Association. R.S.O. 1937, c. 239, s. 2. Ontario
Veterinary
Association.

3. The Association shall be a corporate body by the name aforesaid, having a common seal, with power to make by-laws governing its members, and to fix the fees of admission and annual fees, and shall prescribe the form of certificate to be issued under this Act. R.S.O. 1937, c. 239, s. 3; 1943, c. 36, s. 2. Corporate
name and
powers.

4. No person shall practise veterinary science for fees in Ontario without a certificate entitling him so to do. R.S.O. 1937, c. 239, s. 4, *amended*. Certificate
required.

5. Such certificates shall be issued annually by the registrar to recognized graduates in veterinary science upon the recommendation of a board of three members to be known as the Veterinary Practice Board. R.S.O. 1937, c. 239, s. 5; 1943, c. 36, s. 3. Board to
approve
certificates.

6. The registrar shall be appointed each year by the Association and it shall be the duty of the registrar to issue Registrar's
duties.

the necessary certificates and to make and keep a correct register of those receiving certificates each year and to remove delinquents from the register from time to time as recommended by the Board. R.S.O. 1937, c. 239, s. 6.

Applications
for certi-
ficates.

7. Applications for certificates shall be made to the registrar and referred by him to the Board and it shall be the duty of the Board to carefully examine the evidence submitted as to the standing of each applicant for such certificate, and recommendations shall be made only in the cases of,

- (a) graduates in veterinary science of the Ontario Veterinary College or of the University of Toronto; or
- (b) graduates in veterinary science of any veterinary college or university recognized by the Board as being at least equal in standing to the Ontario Veterinary College, and who have passed an examination conducted by the Board equivalent to that prescribed by the University of Toronto for the degree of Bachelor of Veterinary Science. R.S.O. 1937, c. 239, s. 7.

Persons
entitled to
practise.

1920, c. 51;

8.—(1) Any person who on the 2nd day of April, 1931, held a certificate from the Minister issued under clause c of section 5 of *The Veterinary Science Practice Act, 1920*, or under *The Veterinary Science Practice Act*, being chapter 208 of the Revised Statutes of Ontario, 1927, and does not obtain a certificate issued under section 5 may, notwithstanding any provision of this Act or the absence of the last-mentioned certificate, continue to practise veterinary science for fees in Ontario, subject to the following conditions:

- (a) no such person shall in his practice use any of the letters, or abbreviations thereof, mentioned in section 11;
- (b) no such person shall in his practice use the title or distinction of "doctor" or any abbreviation thereof;
- (c) every such person shall in his practice upon any written or printed matter used or issued by him have clearly written, printed or stamped thereon the words "Licensed only under *The Veterinary Science Practice Act, 1920*" or "Licensed only under *The Veterinary Science Practice Act, R.S.O. 1927*", as the case may be.

Cancellation
of certificate
by Minister.

(2) The Minister may cancel the certificate held by any person entitled to practise under this section, whereupon such person shall cease to practise veterinary science and shall be

liable to the penalties imposed by this Act if he thereafter practises veterinary science without a certificate issued under this Act. R.S.O. 1937, c. 239, s. 8.

9. The registrar, upon the recommendation of the Board, may cancel any certificate upon evidence that the holder thereof has been convicted in the courts of an indictable offence, or is of bad repute through disgraceful conduct, or is in default of any fees payable by him to the Association, whereupon such person shall cease to have any of the privileges of a veterinary surgeon under this Act. R.S.O. 1937, c. 239, s. 9. Cancellation of certificate by registrar.

10. No person or persons, association, company or organization shall conduct in Ontario courses in veterinary science for which fees are charged or certificates or diplomas granted without a certificate of authorization from the Minister, and a certificate shall only be issued after investigation by the Board has shown that the requirements of admission and courses of study and instruction are at least equal in standard to that of the Ontario Veterinary College. R.S.O. 1937, c. 239, s. 10. Conducting courses in veterinary science.

11. No person, other than a graduate in veterinary science of a recognized college or university, shall use the title "Veterinary", "Veterinarian", "Veterinary Surgeon" or append to his name any of these titles, or any abbreviation thereof, and no graduate in veterinary science shall use any title or degree which has not been conferred on him by a recognized college or university. R.S.O. 1937, c. 239, s. 11. Use of titles restricted.

12. Any person holding a certificate from the registrar shall be entitled to professional fees in attending any court of law in such cases as relate to the veterinary profession. R.S.O. 1937, c. 239, s. 12. Right to professional fees.

13. Subject to the approval of the Lieutenant-Governor in Council, the Association may make regulations, Regulations.

- (a) prescribing the term of office of the members of the Board and the manner in which they shall be elected or appointed;
- (b) providing for the establishment of a council of the Association and prescribing the number of members thereof, their term of office and the manner in which and by whom each member shall be elected or appointed;
- (c) providing for the appointment of committees, auditors, employees and agents;

- (d) prescribing the meetings which shall be held by the Board and the council, the manner in which the meetings may be called and the procedure to be followed thereat;
- (e) prescribing the powers and duties, not inconsistent with the provisions of this Act, of the Board, the council and the registrar and any committee, employee or agent;
- (f) providing for the examination of applicants under clause *b* of section 7;
- (g) providing for the investigation of any matters pertaining to the conduct of any member of the Association in the practice of his profession, or of any other person in connection with the practice of veterinary science;
- (h) governing the expenditure or disposition of the funds of the Association;
- (i) providing for appeals from the Board;
- (j) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1943, c. 36, s. 4.

Penalty.

14. Every person who violates any provision of this Act or the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$100, to be recoverable by the Association. R.S.O. 1937, c. 239, s. 14; 1943, c. 36, s. 5.

CHAPTER 410

The Vexatious Proceedings Act

1.—(1) Where upon an application made by way of originating notice according to the practice of the court and with the consent in writing of the Attorney-General a judge of the Supreme Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings in the Supreme Court or in any other court against the same person or against different persons, the judge may order that no legal proceedings shall, without leave of the Supreme Court or a judge thereof, be instituted in any court by the person taking such vexatious legal proceedings, and such leave shall not be given unless the court or judge is satisfied that the proceedings are not an abuse of the process of the court and that there is *prima facie* ground for the proceedings.

Procedure
to prevent
bringing of
vexatious
proceedings.

(2) The Attorney-General shall have the right to appear and be heard in person or by counsel upon any application under subsection 1.

Attorney-
General may
be heard.

(3) A copy of an order made under this section shall be published in *The Ontario Gazette*. R.S.O. 1937, c. 131, s. 1.

Publication
of order.

CHAPTER 411

The Vicious Dogs Act

1. Where a dog is alleged to have bitten any person, the owner of the dog may be summoned to appear before a magistrate to show cause why the dog should not be destroyed and if from the evidence produced it appears that the dog has bitten any person the magistrate may make an order that the dog be destroyed. R.S.O. 1937, c. 322, s. 1.



CHAPTER 412

The Vital Statistics Act

INTERPRETATION

1. In this Act,

Interpre-
tation.

- (a) "birth" means the complete expulsion or extraction from its mother of a foetus which did at any time after being completely expelled or extracted from the mother breathe or show any other sign of life, whether or not the umbilical cord was cut or the placenta attached;
- (b) "cemetery" includes a vault, a mausoleum and any land which is set apart or used for the interment of the dead or in which bodies are buried;
- (c) "cemetery owner" includes the person who is in charge of a cemetery or crematorium under the authority of the owner thereof;
- (d) "certificate" means a certified extract of the prescribed particulars of a registration in the records of the Registrar-General;
- (e) "cremation" means the disposal of a dead body by Rev. Stat., c. 46. incineration under *The Cemeteries Act*;
- (f) "Deputy Registrar-General" means the Deputy Registrar-General appointed under this Act;
- (g) "division registrar" means division registrar appointed under this Act and includes an Indian-agent;
- (h) "divorce" means dissolution and annulment of marriage and includes nullity of marriage;
- (i) "error" means any incorrect information and includes omission of information;
- (j) "funeral director" means a person who takes charge of the body of a still-born child or a deceased person for the purpose of burial, cremation or other disposition;
- (k) "incapable" means unable through death, illness, absence from Ontario or otherwise;
- (l) "Indian" means an Indian within the meaning of the *Indian Act* (Canada) but does not include an R.S.C., 1927 c. 98. enfranchised Indian;

- (m) "Indian-agent" means an Indian-agent within the meaning of the *Indian Act* (Canada);
- (n) "inspector" means an inspector of vital statistics appointed for the purposes of this Act;
- (o) "notation" means any addition to, or alteration of, a registration in the records of the Registrar-General or a division registrar;
- (p) "municipality" means a city, town, village, organized township or improvement district;
- (q) "nurse" includes any person, other than a legally qualified medical practitioner, who attends at the birth of a child;
- (r) "occupier" includes a governor, keeper, warden, superintendent, manager or resident physician of any jail, prison, penitentiary or other place of detention, a children's home or orphanage, a public or private medical, surgical, maternity or mental hospital, or any public or private charitable institution, a manager of an hotel, and a keeper of a house for public accommodation, a tourist camp or other stopping-place for persons;
- (s) "prescribed form" means the form prescribed by the regulations;
- (t) "Registrar-General" means the member of the Executive Council who is charged with the administration of this Act;
- (u) "religious body" means a church or any religious denomination, sect, congregation or society;
- (v) "state" means any state or territory of the United States of America, or the District of Columbia;
- (w) "still-birth" means the complete expulsion or extraction from its mother after the twenty-eighth week of pregnancy of a foetus which did not at any time after being completely expelled or extracted from the mother breathe or show any other sign of life.

1948, c. 97, s. 1.

ADMINISTRATION

Uniform
system of
registration.

2.—(1) The Registrar-General shall direct a uniform system of registration of births, marriages, deaths, still-births, adoptions, divorces and changes of name in Ontario, and shall be charged with the enforcement of the provisions of this Act.

Registra-
tions to be
numbered
by Registrar-
General.

(2) The Registrar-General shall cause the registrations of births, marriages, deaths, still-births, adoptions, divorces and

changes of name occurring in Ontario and received in his office to be numbered in seven separate series and otherwise systematically filed according to each calendar year in accordance with the regulations and carefully kept in vaults provided for that purpose.

(3) The Registrar-General shall cause the registrations to be indexed separately according to each calendar year, and each index shall contain the numbers and such other particulars of the registrations as may be prescribed by the regulations. 1948, c. 97, s. 2. Indexing.

3.—(1) The Registrar-General shall examine the registrations received from the division registrars, and if the registrations are incomplete or unsatisfactory, he shall require such information to be supplied as may be necessary to complete the registration. Examination of registrations.

(2) Where it is found upon examination that any registration received from a division registrar is incomplete as to the required signatures, the Registrar-General shall cause the registration to be returned by registered mail to the proper division registrar in order that the signatures may be obtained. Registrations not signed.

(3) The Registrar-General shall cause all deaths registered under this Act to be classified according to the International List of Causes of Death as revised at the last decennial revision thereof by the International Commission assembled for that purpose and he shall supply free of charge to every legally qualified medical practitioner in Ontario a Physician's Pocket Reference Book explanatory of the list. Classification by International List of Causes of Death.

(4) The Registrar-General may collate, publish and distribute such statistical information regarding the births, marriages, deaths, still-births, adoptions, divorces and changes of name registered during any period as he may deem to be necessary and in the public interest. Publication by Registrar-General.

(5) As soon after the 1st day of January in each year as convenient, the Registrar-General shall cause to be printed, for the use of the Legislative Assembly and for public information, a full report of the births, marriages, deaths, still-births, adoptions, divorces and changes of name for the preceding calendar year. Annual report of Registrar-General.

(6) The Registrar-General shall prepare and issue to every division registrar such detailed instructions as may be required to procure the uniform observance of the provisions of this Act. 1948, c. 97, s. 3. Instructions by Registrar-General.

4.—(1) There shall be a Deputy Registrar-General appointed by the Lieutenant-Governor in Council who shall Deputy Registrar-General.

Rev. Stat.,
c. 317.

be deemed to be a deputy minister under *The Public Service Act*, and who shall have direct supervision of the office of the Registrar-General and be directly responsible to the Registrar-General for the conduct of his office, and shall perform such other duties as may be prescribed by the regulations or delegated to him by the Registrar-General.

Appoint-
ment and
duties of
inspectors.

(2) The Lieutenant-Governor in Council may appoint inspectors of vital statistics for the purpose of this Act, who shall perform such duties as may be prescribed by the regulations. 1948, c. 97, s. 4.

REGISTRATION OF BIRTHS

Duty of
medical
practitioner.

5.—(1) Every legally qualified medical practitioner who attends at the birth within Ontario of a child shall give notice of the birth.

Duty of
nurse.

(2) Where no legally qualified medical practitioner is in attendance at the birth, the nurse in attendance shall give the notice of the birth.

Mode of
giving
notice.

(3) The notice of the birth shall be in the prescribed form and shall be given by delivering or mailing the notice within two days after the day of birth to the division registrar of the registration division within which the child was born.

Notice to be
preserved.

(4) The notice so given shall be transmitted by the division registrar to the Registrar-General and preserved by the Registrar-General until such time as the registration of the birth has been completed under this Act. 1948, c. 97, s. 5.

Statement
of birth.

6.—(1) Within 30 days after the day of the birth within Ontario of a child,

- (a) the mother;
- (b) if the mother is incapable, the father;
- (c) if the mother and father are incapable, the person standing in the place of the parents of the child;
- (d) if the mother and father are incapable and there is no person standing in the place of the parents of the child, the occupier of the premises in which the child is born, if he has knowledge of the birth; or
- (e) if none of the persons mentioned in clauses *a* to *d* is capable or available, the nurse present at the birth,

shall complete, certify and deliver or mail a statement in the prescribed form respecting the birth to the division registrar of the registration division within which the child was born, provided that the Registrar-General may accept the statement

of the father although the mother is not incapable. 1948, c. 97, s. 6 (1); 1949, c. 108, s. 1.

(2) Notwithstanding subsection 1, the father of an illegitimate child shall not be required to register the birth of the child. No duty on father of illegitimate child to register.

(3) The statement shall state whether the mother of the child is single, married, widowed or divorced, but shall not state whether the parents of the child are married to each other. Contents of statement.

(4) No indication of the paternity of the child shall be given in the registration of the birth of a child of a married woman, but the particulars of the husband may be given, provided that the statement shall not be rendered unreceivable by reason only of failure to supply the particulars of the husband. Birth of child to married woman.

(5) In the registration of the birth of a child of an unmarried woman, the child shall be registered in the name of the mother and no person shall be named as the father, provided that where the person acknowledging himself to be the father and the mother so request in writing, the father may be named and the child registered in the name of the father in accordance with the request, and if the request is made after the registration of the birth the Registrar-General may amend the registration in accordance with the request by making a notation thereon. Name of illegitimate child.

(6) If more than one child is delivered from the mother during a single confinement, a separate statement for each child shall be completed, certified and delivered or mailed as provided in subsection 1, and in each statement the number of children born during the confinement and the number in the order of birth shall be given. 1948, c. 97, s. 6 (2-6). Plural births.

7. If the statement respecting the birth of a child is not completed, certified and delivered or mailed in the manner and within the time provided in section 6, every person upon whom the duty of completing, certifying and delivering or mailing the statement is imposed by section 6 shall remain liable to perform that duty notwithstanding the expiration of the time so provided, and shall, in respect of each successive period of 30 days thereafter during which he neglects so to complete, certify and deliver or mail the statement, be guilty of a violation of this Act. 1948, c. 97, s. 7. Violation.

8.—(1) Upon receipt, within one year from the day of the birth of a child, of a statement in the prescribed form respecting the birth, the division registrar if he is satisfied as to the Registration of birth.

correctness and sufficiency thereof, shall register the birth by signing the statement, and thereupon the statement shall constitute the registration of the birth.

Acknowledgment of registration. (2) Upon the registration of a birth, the division registrar shall issue to the person registering the birth, without charge, an acknowledgment of the registration of the birth in the prescribed form.

Not a certificate. (3) The acknowledgment of registration of a birth shall not be deemed to be or be used in any way as a birth certificate.

Not to register after one year. (4) A division registrar shall not register a birth after one year from the day of the birth. 1948, c. 97, s. 8.

Registration of birth by Registrar-General. **9.—**(1) If the birth of a child has not been registered within one year from the day of the birth, application for the registration of the birth may be made to the Registrar-General in the prescribed form by the person whose birth has not been registered or by any other person.

Method of application for registration. (2) The application shall be accompanied by,
 (a) the prescribed fee;
 (b) the statement provided for in subsection 1 of section 6, completed and certified;
 (c) a statutory declaration in the prescribed form by the applicant or any other person; and
 (d) such other evidence as may be prescribed by the regulations.

Registration. (3) If the Registrar-General is satisfied as to the *bona fides* of the application and the correctness and sufficiency of the evidence adduced in support thereof, and that the regulations have been complied with, he may register the birth by signing the statement, and thereupon the statement shall constitute the registration of the birth. 1948, c. 97, s. 9.

Foundlings. **10.—**(1) If a living new-born child is found deserted, the person who finds the child and any person in whose charge the child is placed shall give to the best of his knowledge and belief to the division registrar of the registration division within which the child is found, within seven days after the finding or taking charge of the child, such information concerning the birth of the child as the informant may possess.

Duties of division registrar. (2) The division registrar, upon receipt of such information regarding the birth of the child, and upon being satisfied that every effort has been made to identify the child without success, shall,

- (a) cause the person who found or has charge of the child to complete a statutory declaration concerning the facts of the finding of the child and to complete and certify, so far as the person is able, a statement in the prescribed form required under subsection 1 of section 6;
- (b) cause the child to be examined by the local medical officer of health or a legally qualified medical practitioner with a view to determining as nearly as possible the day of the birth of the child, and the examiner shall make a statutory declaration setting forth the facts as determined by the examination; and
- (c) make a detailed report of the case and transmit the report to the Registrar-General together with evidence regarding the birth of the child.

(3) A legally qualified medical practitioner shall receive Fee. a fee of \$5 for the examination under clause *b* of subsection 2, which fee shall be paid by the Treasurer of Ontario out of the Consolidated Revenue Fund.

(4) The Registrar-General, upon receipt of the evidence referred to in subsection 2, shall review the case and upon being satisfied as to the correctness and sufficiency of the facts stated, shall register the birth and for the purpose of registration shall establish for the child.

Registration
of birth of
foundlings.

- (a) a date of birth;
- (b) a place of birth; and
- (c) a surname and given name.

(5) If, subsequent to the registration, the identity of the child is established to the satisfaction of the Registrar-General, he may by order set aside the registration made pursuant to this section and cause the substitution of a new registration of the birth in accordance with the actual facts of the birth, and cause the original registration to be withdrawn from the registration files and kept in a separate file and sealed.

Subsequent
registration
if child
identified.

(6) Where the identity of the child is established and a new registration is made pursuant to subsection 5, the date of the new registration shall be the date of the original registration.

Date of
registration.

(7) The holder of a certificate issued in respect of a registration of a birth made pursuant to subsection 4, which registration has been withdrawn pursuant to subsection 5, shall deliver it forthwith upon demand to the Registrar-General for cancellation. 1948, c. 97, s. 10.

Cancellation
of certificates.

Registration
of child
legitimated
by subse-
quent
marriage.

11.—(1) Where a child has been legitimated by the subsequent intermarriage of his parents, then upon the parents,

- (a) completing and certifying the statement required under subsection 1 of section 6;
- (b) delivering the statement, together with such evidence as to the legitimation as is required by the regulations, to the Registrar-General; and
- (c) paying the prescribed fee,

the Registrar-General shall,

- (d) register the birth as if the parents had been married to each other at the time of the birth; and
- (e) make a notation on the statement that the registration was made under this section,

and the statement shall constitute the registration of the birth, provided that upon proof that one of the parents is dead or mentally incapable, the application may be made by the other parent.

Original
registration
to be with-
drawn.

(2) Where the birth of the child has been registered before the marriage, the original registration shall be withdrawn from the registration files and shall be kept in a separate file and sealed. 1948, c. 97, s. 11.

Alteration
of given
name of
child.

12.—(1) Where the birth of a child has been registered, and,

- (a) the given name by which the child was registered has been changed; or
- (b) the child was registered without a given name,

the Registrar-General, upon payment of the prescribed fee and upon receipt of a statutory declaration containing such particulars as may be prescribed by the regulations as to the change or giving of the given name, completed by the father, mother or guardian of the child, or the person procuring the name to be changed or given, shall cause a notation of the alteration or addition to be made on the registration of the birth.

Baptismal
certificate
to be filed.

(2) Where the change of the given name is effected by baptism, a certificate of baptism signed by the person who performed the rite of baptism shall be filed with the statutory declaration.

Applica-
bility of
section.

(3) This section shall apply only where the given name of the child was changed or the new name given within 10 years after the birth of the child.

(4) No notation shall be made in a registration regarding the given name of a child except in the manner prescribed in subsection 1, or pursuant to the provisions of this Act in respect of adopted children, changes of names and correction of errors. Limitation on alterations to given name.

(5) Every notation made pursuant to this section shall be dated and initialled by the officer designated by the regulations. Notation to be dated and initialled.

(6) If subsequent to the making of a notation pursuant to this section application is made for a birth certificate, the certificate shall be prepared as if the registration had been made containing the changed or new given name at the time of registration, but if a certified copy of the registration is required, the certified copy shall contain a copy of the notation made pursuant to subsection 1. 1948, c. 97, s. 12. Changes to be shown on certificate.

REGISTRATION OF STILL-BIRTHS

13.—(1) In the case of a still-birth within Ontario, the person who, in the case of a birth, would have been required to furnish particulars of the birth under subsection 1 of section 6, shall complete, certify and deliver a statement in the prescribed form respecting the still-birth to the funeral director in charge of the body. Statement re still-births.

(2) The legally qualified medical practitioner in attendance at a still-birth, or where there is no legally qualified medical practitioner in attendance, a coroner shall complete a medical certificate in the prescribed form of the cause of the still-birth and shall deliver it to the funeral director in charge of the body. Medical certificate.

(3) Upon receipt of the statement and the medical certificate, the funeral director shall complete the statement setting forth the proposed date and place of burial, cremation or other disposition or the removal of the body and shall deliver the statement and medical certificate to the division registrar of the proper registration division. Duty of funeral director.

(4) Upon receipt of the statement and the medical certificate the division registrar, if he is satisfied as to the correctness and sufficiency thereof, shall register the still-birth by signing the statement and medical certificate and thereupon the statement and medical certificate shall constitute the registration of the still-birth. Registration of still-birth.

(5) Upon the registration of a still-birth, the division registrar, without the payment of any fee, shall forthwith prepare and deliver to the person requiring the same for the Burial permit.

purpose of the burial, cremation or other disposition or removal of the body of the still-born child,

- (a) an acknowledgment that the still-birth has been registered; and
- (b) a burial permit for the purpose of the burial or other disposition of the body.

Application
of ss. 5-9, 11,
16-23.

(6) Subject to the provisions of this section, sections 5 to 9, 11 and 16 to 23 shall apply *mutatis mutandis* to still-births. 1948, c. 97, s. 13.

REGISTRATION OF MARRIAGES

Marrriages.

14.—(1) Every marriage that is solemnized in Ontario shall be registered under this Act.

Registration
of marriage.

Rev. Stat.,
c. 222.

(2) Upon receipt of the statement of marriage forwarded under subsection 2 of section 28 of *The Marriage Act*, the Registrar-General, if he is satisfied as to the correctness and sufficiency thereof, shall register the marriage by signing the statement, and thereupon the statement shall constitute the registration of the marriage.

Acknowledg-
ment of
registration.

(3) The Registrar-General shall thereupon mail to the person by whom the marriage was solemnized, an acknowledgment of the receipt in the prescribed form. 1949, c. 108, s. 2.

Registration
of marriage
by Registrar-
General.

15. If a marriage has not been registered within one year from the day of the marriage, the registration may be made by the Registrar-General upon such evidence as may be prescribed by the regulations. 1948, c. 97, s. 15.

REGISTRATION OF DEATHS

Place of
registration
of deaths.

16.—(1) The death of every person who dies within Ontario shall be registered in the office of the division registrar of the registration division within which the death occurs, or if the place of death is not known then in the office of the division registrar of the registration division within which the body is found.

Information
respecting
deceased.

(2) A statement in the prescribed form containing personal particulars of the deceased person shall, upon the request of the funeral director in charge of the body, be completed, certified and delivered to the funeral director,

- (a) by the nearest relative present at the death or last illness, or any relative who may be available;
- (b) if no relative is available, by the occupier of the premises in which the person died, or if the occupier be the person who has died, by any adult person

residing in the premises who was present at the death or has knowledge of the personal particulars;

- (c) if the death occurred in unoccupied premises and no relative is available, by any adult person who was present at the death or has knowledge of the personal particulars; or
- (d) by the coroner who has been notified of the death and has made an investigation or held an inquest regarding the death. 1948, c. 97, s. 16 (1, 2).

(3) The legally qualified medical practitioner who was last in attendance during the last illness of a deceased person or the coroner who conducts an investigation or inquest into the death of a person shall, forthwith after the death, investigation or inquest, as the case may be, complete and sign a medical certificate of death in the prescribed form, stating therein the cause of death according to the International List of Causes of Death as last revised by the International Commission called for that purpose, and shall deliver the medical certificate to the funeral director in charge of the body. 1949, c. 108, s. 3. Medical certificate.

(4) Upon receipt of the statement containing the personal particulars and the medical certificate of death, the funeral director shall complete the statement containing personal particulars, setting forth the proposed date and place of burial, cremation or other disposition or the removal of the body and shall deliver the statement and the medical certificate to the division registrar of the proper registration division. 1948, c. 97, s. 16 (5). Duty of funeral director.

17.—(1) Upon the receipt, within one year from the day of the death of a person, of the statement containing the personal particulars and the medical certificate, the division registrar, if he is satisfied as to the correctness and sufficiency thereof, shall register the death by signing the statement and medical certificate, and thereupon the statement and medical certificate shall constitute the registration of the death. Registration of death by division registrar.

(2) A division registrar shall not register any death after one year from the day of the death. Time limitation.

(3) Upon the registration of a death, the division registrar, without the payment of any fee, shall forthwith prepare and deliver to the funeral director requiring the same for the purpose of the burial, cremation or other disposition or the removal of the body of the deceased person, Duty of division registrar.

- (a) an acknowledgment that the death has been registered; and

(b) a burial permit for the purpose of the burial or other disposition of the body. 1948, c. 97, s. 17.

Cause of death on burial permit.

(4) Except as may be required by the regulations, the cause of death shall not be stated on a burial permit. 1949, c. 108, s. 4.

Registration in another registration division.

18.—(1) If a death has occurred and it is impracticable to register it, by reason of distance, with the division registrar of the proper registration division, registration of the death may be made with the nearest division registrar who, upon payment of the prescribed fee, shall register the death and issue an acknowledgment of registration of death and a burial permit and such division registrar shall forward the registration of the death to the division registrar of the proper registration division.

Fee for registration in another division.

(2) Where a death has been registered in accordance with subsection 1, the division registrar who registers the death shall be entitled to the fee for his own use. 1948, c. 97, s. 18.

Death by violence or misadventure.

19.—(1) If there is reason to believe that a person has died as a result of violence or misadventure or by unfair means or from any cause other than disease, or as a result of negligence, malpractice or misconduct on the part of others or under such circumstances as require investigation, no acknowledgment of registration of death and no burial permit shall be issued by the division registrar unless,

(a) the body has been examined by a coroner and the coroner has made inquiry into the circumstances of the death or held an inquest as provided by *The Coroners Act*;

Rev. Stat., c. 70.

(b) the coroner has signed the medical certificate of death; and

(c) the other provisions of this Act regarding registration of death have been complied with. 1948, c. 97, s. 19 (1).

Coroner's warrant to bury.

(2) Where a person has died under any of the circumstances mentioned in subsection 1 and it is impracticable for the coroner to complete a medical certificate of the cause of death, he may issue his warrant to bury when he has examined the body as provided in *The Coroners Act*, and the division registrar shall issue a burial permit on the delivery to him of the warrant to bury, and the coroner shall, within two days of his determining the cause of death or of the completion of his investigation, certify and deliver or mail the medical certificate of death to the division registrar. 1949, c. 108, s. 5.

Rev. Stat., c. 70.

20.—(1) Subject to subsection 2 of section 19, no person shall bury, cremate or otherwise dispose of the body of any person who dies within Ontario or remove the body from the registration division within which the death occurred or the body is found, and no person shall take part in or conduct any funeral or religious service for the purpose of burial, cremation or other disposition of the body of a deceased person, unless the death has been registered under this Act, and an acknowledgment of registration of death and a burial permit has been obtained from the division registrar.

Registration before disposition of body.

(2) The funeral director shall retain the acknowledgment of registration of death as evidence of his having complied with this Act.

Acknowledgment to be retained by funeral director.

(3) No person shall conduct a funeral or other religious burial service unless the burial permit signed by the proper division registrar is produced to him.

Person not to conduct service unless burial permit produced.

(4) A cemetery owner shall not permit the interment or cremation of the body of any person in the cemetery or crematorium unless the burial permit is delivered to him.

Delivery of burial permit.

(5) The cemetery owner shall retain the burial permit as evidence of his having complied with this Act.

Cemetery owner to retain burial permit.

(6) Where no person is in charge of the cemetery at the time of the burial or other disposition of the body, the funeral director shall write across the face of the burial permit the words "No person in charge", and shall append his signature thereto and return the burial permit to the division registrar of the registration division in which the burial or other disposition took place. 1948, c. 97, s. 20.

Where no person in charge of cemetery.

21.—(1) If the body of a person is to be removed to the place of burial or other disposition by a transportation company or other common carrier, the removal shall not take place until the burial permit has been affixed to the outside of the casket.

Removal of bodies.

(2) If the death occurred outside of Ontario and the burial or other disposition of the body is to take place in Ontario, a burial, transit or removal permit or such other document as may be prescribed or required under the laws of the jurisdiction in which the death occurred, signed by the proper officer of the place in which the death occurred, shall be sufficient authority for the burial or other disposition of the body. 1948, c. 97, s. 21.

Death out of Ontario.

22. A cemetery owner shall, on or before the 10th day of each month, mail to the Registrar-General a return in the

Returns of burials and cremations.

prescribed form of the burials and cremations that took place in the cemetery or crematorium during the last preceding month. 1948, c. 97, s. 22.

Registration
of death by
Registrar-
General.

23.—(1) If the death of a person has not been registered within one year from the day of the death, application for registration of the death may be made to the Registrar-General in the prescribed form.

Method of
application
for regis-
tration.

(2) The application shall be accompanied by,

- (a) the prescribed fee;
- (b) the statement provided for in subsection 2 of section 16, completed and certified;
- (c) a statutory declaration in the prescribed form by the applicant or any other person; and
- (d) such other evidence as may be prescribed by the regulations.

Registra-
tion of
death.

(3) If the Registrar-General is satisfied as to the *bona fides* of the application and the correctness and sufficiency of the evidence adduced in support thereof, he may register the death by signing the statement, and thereupon the statement shall constitute the registration of the death. 1948, c. 97, s. 23.

ADOPTION ORDERS

Registra-
tion of
Ontario
adoption.
Rev. Stat.,
c. 7.

24.—(1) Upon receipt of a certified copy of an order of adoption transmitted under section 17 of *The Adoption Act*, the Registrar-General shall register the order.

Notation of
adoption on
birth regis-
tration.

(2) If the birth of the person adopted,

- (a) was registered in Ontario before the adoption; or
- (b) is registered in Ontario after the adoption in accordance with this Act,

the Registrar-General, upon production of evidence satisfactory to him of the identity of the person, shall cause a notation of the adoption and of any change of name consequent thereon with a reference to the registration of the order, to be made upon the registration of birth of the person, and shall cause a reference to the registration of the birth to be endorsed on the copy of the order.

Registration
of order of
another
jurisdiction.

(3) Where a person whose birth has been registered in Ontario has been adopted pursuant to an order, judgment or decree of adoption made by a court of competent jurisdiction of another province, state or country, the Registrar-General, upon receipt of a certified copy of the order, judgment or decree, issued under the seal of the proper certifying authority

and upon production of evidence satisfactory to him of the identity of the person, shall register the order, judgment or decree and shall cause a notation of the adoption and of any change of name consequent thereon with a reference to the registration of the order to be made upon the registration of the birth of the person, and shall cause a reference to the registration of the birth to be endorsed on the copy of the order, judgment or decree.

(4) Where a notation of adoption and of a change of name consequent thereon has been made on a registration of birth, and application is afterwards made for a birth certificate pursuant to this Act, the certificate shall be issued as if the registration had been made in the name as changed. Certificate after adoption.

(5) Every notation made pursuant to this section shall be dated and initialled by the officer designated by the regulations. Notation to be dated and initialled. 1948, c. 97, s. 24.

25.—(1) If a child born in another province or in any state has been adopted in Ontario pursuant to *The Adoption Act*, the Registrar-General shall transmit a certified copy of the order to the person having charge of the registration of births in the province or state in which the child was born. Child born in another province or state. Rev. Stat., c. 7.

(2) If a child born in a jurisdiction other than a province or state has been adopted in Ontario pursuant to *The Adoption Act*, the Registrar-General, upon request, may transmit a certified copy of the order to the person having charge of the registration of births in the jurisdiction in which the child was born. 1948, c. 97, s. 25. Child born in another jurisdiction.

CHANGES OF NAMES

26.—(1) Upon receipt of a certified copy of an order transmitted under section 17 of *The Change of Name Act*, the Registrar-General shall register the order. Registration of order changing name. Rev. Stat., c. 47.

(2) If the birth or marriage of a person whose name is changed by the order, Notation of change on registrations.

(a) was registered in Ontario before the date of the order; or

(b) is registered in Ontario after the date of the order in accordance with this Act,

the Registrar-General, upon production of evidence satisfactory to him of the identity of the person shall cause a notation of the change of name with a reference to the registration of the order to be made upon the registration of birth or marriage of the person, and shall cause a reference to the

registration of the birth or marriage to be endorsed on the copy of the order.

Certificate
after
notation of
change of
name.

(3) Where a change of name has been noted on a birth or marriage registration and application is afterwards made for a birth or marriage certificate pursuant to this Act, the certificate shall be issued as if the registration had been made in the name as changed by the order.

Annulment
of order re
change of
name.
Rev. Stat.,
c. 47.

(4) Upon the receipt of a certified copy of an annulling order transmitted under section 21 of *The Change of Name Act*, the Registrar-General shall cause a notation of the annulling order and a reference to the registration thereof to be made upon every registration on which a notation has been made pursuant to the original order.

Notation to
be dated and
initialled.

(5) Every notation made pursuant to this section shall be dated and initialled by the officer designated by the regulations. 1948, c. 97, s. 26.

Notation of
change of
name occur-
ring before
Jan. 1, 1949.

(6) The Registrar-General, upon application in the prescribed form and upon production of evidence satisfactory to him,

1939, c. 6.

- (a) that the name of a person whose birth or marriage has been registered in Ontario was changed prior to the 1st day of January, 1949, by an order under *The Change of Name Act, 1939*;
- (b) that the order has not been annulled; and
- (c) of the identity of the person,

shall cause a notation and references to be made as provided in subsection 2, and subsections 3 to 5 shall thereupon be applicable. 1948, c. 97, s. 55 (2).

DIVORCE DECREES

Statement
by registrar
respecting
divorce
decrees.

27.—(1) The Registrar of the Supreme Court and every local registrar of the Supreme Court shall, from time to time, as prescribed by the regulations, furnish to the Registrar-General a statement in the prescribed form respecting each final decree of divorce entered by him in the Supreme Court.

Notation of
decree upon
registration
of marriage.

(2) If the marriage dissolved or annulled by the decree was solemnized in Ontario and registered with the Registrar-General, the Registrar-General, upon receipt of the statement of the divorce, shall register the statement and shall cause a notation of the decree with a reference to the registration of the statement to be made upon the registration of the marriage, and shall cause a reference to the registration of the marriage to be endorsed on the statement.

(3) Where a marriage that has been registered in Ontario has been dissolved or annulled by an order, judgment or decree made by a court of competent jurisdiction in another province, or by an Act of the Parliament of Canada, the Registrar-General, upon receipt of a certified copy of the order, judgment, decree or Act issued under the seal of the proper certifying authority shall register the order, judgment, decree or Act and shall cause a notation thereof with a reference to its registration to be made upon the registration of the marriage, and shall cause a reference to the registration of the marriage to be endorsed on the copy of the order, judgment, decree or Act.

Divorce
decrees of
other juris-
dictions.

(4) If, subsequent to the registration of the divorce, application is made for a marriage certificate, the certificate shall contain a copy of the notation made under subsection 2 or 3.

Certificate
of marriage
after
divorce
registered.

(5) The Registrar and the local registrars of the Supreme Court shall receive a fee of 50 cents for each statement of a divorce furnished to the Registrar-General and the fees shall be payable from time to time by the Treasurer of Ontario out of the Consolidated Revenue Fund.

Fee for
statement
of divorce.

(6) Every notation made pursuant to this section shall be dated and initialled by the officer designated by the regulations.

Notation on
registration.

(7) No certificate of divorce shall be issued by the Registrar-General. 1948, c. 97, s. 27.

Certificates
prohibited.

28.—(1) Where a marriage that has been performed in another province has been dissolved or annulled in Ontario, the Registrar-General upon receipt of the statement respecting the decree of divorce in respect of the marriage, transmitted under section 27, shall require the Registrar or local registrar who transmitted the statement to furnish him with a certified copy of the order, judgment or decree issued under the seal of the proper certifying authority.

Marriage
performed
in another
province.

(2) Upon receipt of the certified copy, the Registrar-General shall transmit it to the person having charge of the registration of marriages in the province in which the marriage was performed. 1948, c. 97, s. 28.

Idem.

REGISTRATION OF BIRTHS AND DEATHS OCCURRING ON BOARD SHIP

29. Upon receipt from the Minister of Transport of information transmitted under the *Canada Shipping Act, 1934* (Canada), respecting the birth of a child or the death of a person on board a ship whose port of registry is within Ontario,

Births and
deaths on
board ship.
1934,
c. 44
(Canada).

the Deputy Registrar-General may register the birth or death. 1948, c. 97, s. 29.

CHURCH RECORDS

Filing of
church
records.

30.—(1) Any cemetery company or association, or any religious body or historical society or association, or any corporation or individual in possession of any record of births, marriages, baptisms or deaths which may be of value in establishing the genealogy of any resident in Ontario may, with the approval of the Registrar-General, deposit the record with the Registrar-General without charge.

Records to
be pre-
served.

(2) Upon being deposited, the records shall be preserved and remain in the custody of the Registrar-General as part of the records of his office. 1948, c. 97, s. 30.

CORRECTION OF ERRORS IN REGISTRATIONS

Corrections
by division
registrar.

31.—(1) If, while the registration of any birth, death or still-birth is in the possession of a division registrar, it is reported to him that an error has been made in the registration he shall inquire into the facts and if he is satisfied that an error has been made in the registration he may correct the error according to the facts by a notation on the registration without any alteration being made in the registration. 1948, c. 97, s. 31 (1); 1949, c. 108, s. 6.

Correction
by personal
appearance.

(2) If the person originally supplying the information contained in a registration to be corrected appears in person, the division registrar may permit correction in the original entry.

Correction
by Registrar-
General.

(3) If, after a registration has been received or made by the Registrar-General, it is reported to him that an error has been made, the Registrar-General shall inquire into the facts, and upon the production of evidence satisfactory to him, supplemented by statutory declaration in the prescribed form, he may correct the error by a notation on the registration without any alteration being made in the registration.

Certificate
of registra-
tion which
has been
corrected.

(4) If, subsequent to the correction of an error, application is made for a certificate pursuant to this Act, the certificate shall be prepared as if the registration had been made containing correct particulars at the time of registration, but if a certified copy of the registration is required, the certified copy shall contain a copy of the notation made pursuant to subsection 1 or 3.

Notation on
registration.

(5) Every notation made pursuant to this section shall be dated and initialled by the person making the correction or the officer designated by the regulations. 1948, c. 97, s. 31 (2-5).

REGISTRATION DIVISIONS

32.—(1) The whole of Ontario shall be divided into registration divisions. Registration divisions.

(2) Every municipality shall be a registration division. Municipal units.

(3) The Lieutenant-Governor in Council may divide that part of Ontario not within a municipality into registration divisions, and may from time to time extend, reduce, subdivide or annul any such registration division or merge it in whole or in part with one or more registration divisions and may attach any territory or portion thereof not being part of a municipality to a registration division constituted under subsection 2. 1948, c. 97, s. 32. Unorganized territory.

APPOINTMENT AND DUTIES OF DIVISION REGISTRARS

33.—(1) The clerk of every municipality shall be *ex officio* division registrar of the registration division formed by the municipality and any territory thereto attached unless the Lieutenant-Governor in Council appoints some other person as a division registrar in his stead. Municipal clerks to be division registrars.

(2) The Lieutenant-Governor in Council may appoint the division registrar for a registration division which is formed of territory not within a municipality or attached to a municipality. Appointment of division registrar in unorganized territory.

(3) The division registrar shall have power to take the affidavit or statutory declaration of any person for the purposes of this Act. Power to take affidavits.

(4) In a city having a population of 50,000 or over, the division registrar may, with the approval of the Registrar-General, appoint such sub-registrars as may be necessary for the more convenient carrying out of the provisions of this Act with respect to the registration of deaths and for the issuing of burial permits. Sub-registrars in cities.

(5) Where the Registrar-General deems it necessary in order to facilitate the registration of deaths for the purpose of burial in any section of Ontario, he may appoint a sub-registrar for the special purpose of issuing a burial permit upon payment by the applicant of a fee of 25 cents. Sub-registrars elsewhere.

(6) A sub-registrar shall forthwith transmit the registration to the division registrar for the registration division in which the death occurred or in which the body was found for registration by him. 1948, c. 97, s. 33. Sub-registrar to transmit registration.

Duties of
division
registrars.

34. The division registrar shall,

- (a) receive and sign statements and registrations and issue burial permits;
- (b) supply, free of charge, any prescribed form required by any person in order to comply with this Act;
- (c) keep all registrations, records, notices and documents received by him in a place of safety;
- (d) use all available means to obtain the necessary information for the purpose of completing the registrations required to be made by him;
- (e) inform the proper person of the duty to furnish him with particulars for the registration of a birth, death or still-birth if he has reason to believe that any has taken place within his division and has not been registered, and, on the failure of the person to make the registration within seven days, supply to the Registrar-General such information as he has in his possession regarding the failure of any person to furnish the required particulars;
- (f) examine every statement of birth, death or still-birth in order to ascertain whether or not it has been completed in the prescribed form;
- (g) ensure that every registration of birth, death or still-birth has been written legibly in durable ink;
- (h) refuse to accept any statement which does not contain all the items of information required therein unless he has received a satisfactory explanation for the omission;
- (i) call attention to any defects in a statement of personal particulars or medical certificate of death which is incomplete or unsatisfactory, and withhold the issuance of the acknowledgment of registration of death and the burial permit until the defects have been corrected;
- (j) sign every registration as division registrar in attestation of the date of registration in his office;
- (k) number consecutively the registrations of births, deaths and still-births in separate series beginning with "No. 1" for the first registration of a birth, death or still-birth in each calendar year;
- (l) transmit to the Registrar-General as required by the regulations the registration of every birth, death and still-birth made by him;

- (m) report the fact to the Registrar-General, in the prescribed form, if no birth, death or still-birth has been registered;
- (n) keep such records as may be prescribed by the regulations; and
- (o) transmit to the proper division registrar within 48 hours every registration of birth, death or still-birth received by him which did not occur within his registration division. 1948, c. 97, s. 34; 1949, c. 108, s. 7.

35. Every division registrar shall, under the direction of the Registrar-General, enforce this Act in his registration division and shall make an immediate report to the Registrar-General of any violation of this Act of which he has knowledge. 1948, c. 97, s. 35.

Report to Registrar-General of any violation of Act.

REMUNERATION OF DIVISION REGISTRAR

36.—(1) Every municipality shall pay annually, on the 1st day of February, to the division registrar, a remuneration of 25 cents for each registration of a birth, death or still-birth transmitted to the Registrar-General during the preceding calendar year, on presentation of the certificate of the Registrar-General to the treasurer of the municipality, but a municipality may by by-law with the approval of the Registrar-General limit the aggregate remuneration of the division registrar or provide for the payment of a stated annual remuneration. 1948, c. 97, s. 36 (1); 1949, c. 108, s. 8.

Remuneration of division registrar.

(2) Remuneration at double the rates set forth in subsection 1 shall be paid by the Treasurer of Ontario out of the Consolidated Revenue Fund to every Indian-agent and to every division registrar appointed by the Lieutenant-Governor in Council for any registration division not included in or attached to a municipality.

Remuneration in unorganized territory.

(3) Nothing in this section shall prevent the remuneration of a division registrar being paid to him monthly, but in that case the remuneration shall be paid within 10 days of the presentation of the certificate of the Registrar-General. 1948, c. 97, s. 36 (2, 3).

Monthly remuneration permissible.

FORMS

37.—(1) The Registrar-General shall distribute the prescribed forms to the division registrars.

Registrar-General to distribute forms.

(2) The cost of the prescribed forms and the distribution thereof shall be paid out of the Consolidated Revenue Fund.

Cost of forms.

No other
forms to
be used.

(3) No forms shall be used for the purposes of this Act other than the prescribed forms supplied by the Registrar-General. 1948, c. 97, s. 37.

CERTIFICATES AND SEARCHES

Contents of
birth
certificate;

38.—(1) A birth certificate shall contain only the following particulars of the registration:

- (a) name of the child;
- (b) date of birth;
- (c) place of birth;
- (d) sex;
- (e) date of registration; and
- (f) registration number.

death
certificate;

(2) A death certificate shall contain only the following particulars of the registration:

- (a) name, age and marital status of the deceased;
- (b) date of death;
- (c) place of death;
- (d) sex;
- (e) date of registration; and
- (f) registration number.

marriage
certificate.

(3) A marriage certificate shall contain only the following particulars of the registration:

- (a) names of the parties;
- (b) date of the marriage;
- (c) place of the marriage;
- (d) place of birth of each of the parties;
- (e) date of registration; and
- (f) registration number.

Still-birth
certificate.

(4) No still-birth certificate shall be issued.

Certificates
under seal.

(5) A certificate, order or other document issued by the Registrar-General pursuant to this Act, may bear the seal of office of the Registrar-General. 1948, c. 97, s. 38.

Who may
obtain birth
certificate;

39.—(1) Upon application and upon payment of the prescribed fee, any person who furnishes substantially accurate particulars and satisfies the Registrar-General as to his reason for requiring it, may obtain from the Registrar-General a

birth certificate in respect of any birth of which there is a registration in his office.

(2) Upon application and upon payment of the prescribed ^{death} fee, any person may obtain from the Registrar-General a death certificate in respect of any death of which there is a registration in his office.

(3) Upon application and upon payment of the prescribed ^{marriage} fee, ^{certificate.}

(a) one of the parties to the marriage;

(b) a parent of one of the parties;

(c) a child of the marriage; or

(d) any person with the approval of the Registrar-General,

may obtain from the Registrar-General a marriage certificate in respect of any marriage of which there is a registration in his office. 1948, c. 97, s. 39.

40.—(1) No certified copy of a registration of birth, death or still-birth shall be issued except to a person authorized by the Registrar-General or the order of a court and upon payment of the prescribed fee. ^{Who may obtain copy of registration of birth, death or still-birth.}

(2) No certified copy of a registration of marriage shall be issued except to one of the parties to the marriage or to a person authorized by the Registrar-General or the order of a court and upon payment of the prescribed fee. 1948, c. 97, s. 40. ^{Who may obtain copy of registration of marriage.}

41.—(1) A certificate purporting to be issued pursuant to section 39 and signed by the Registrar-General shall be admissible in any court in Ontario as *prima facie* evidence of the facts certified to be recorded, and it shall not be necessary to prove the signature or official position of the person by whom the certificate purports to be signed. ^{Certificate as *prima facie* evidence.}

(2) A lithographed, printed or stamped facsimile signature of the Registrar-General shall be sufficient authentication of a certificate. ^{Signature of Registrar-General.}

(3) A certified copy of a registration, signed by the Registrar-General or Deputy Registrar-General, purporting to be issued pursuant to section 40, shall be admissible in any court in Ontario as *prima facie* evidence of the facts recorded therein. ^{Copy of registration as *prima facie* evidence.}

(4) Notwithstanding subsections 1 and 3, no birth certificate and no certified copy of a registration of birth or still- ^{Proviso.}

birth shall be admissible in evidence to affect a presumption of legitimacy. 1948, c. 97, s. 41.

No certificates by division registrar.

42. A division registrar shall not issue a certificate in respect of any birth, death, marriage or still-birth. 1948, c. 97, s. 42.

Searches.

43.—(1) Any person who,

- (a) applies;
- (b) pays the prescribed fee; and
- (c) satisfies the Registrar-General as to his reason for requiring it,

may have search made for the registration of any birth, death, marriage, still-birth, divorce, adoption or change of name in the indexes kept in the office of the Registrar-General.

Search of church records.

(2) Any person who,

- (a) applies;
- (b) pays the prescribed fee; and
- (c) satisfies the Registrar-General as to his reason for requiring it,

may have search made for any birth, marriage, baptism or death in any record kept in the office of the Registrar-General pursuant to section 30.

Information given on search.

(3) The only information given upon a search under subsection 1 or 2 shall be as to the existence or otherwise of the registration, and the registration number if registered. 1948, c. 97, s. 43.

GENERAL PROVISIONS

Ontario registrations only.

44. Subject to section 29, no registration shall be made of a birth, still-birth, marriage or death occurring outside of Ontario. 1948, c. 97, s. 44.

Application of Act.

45. The provisions of this Act shall apply in respect of any birth, marriage, death, still-birth, divorce, adoption or change of name that has occurred prior to the passing of this Act, as well as to any birth, marriage, death, still-birth, divorce, adoption or change of name which may occur subsequent to the passing of this Act. 1948, c. 97, s. 45.

46. No person shall issue any document which purports to be a certificate of a birth, marriage, death or still-birth other than a certificate provided for under this Act. 1948, c. 97, s. 46. Certificates not to be issued.

47.—(1) If, after such notice to and the hearing of such interested parties as he considers proper, the Registrar-General is satisfied that a registration was fraudulently or improperly obtained, he may order that a notation be made on the registration to that effect and thereafter no certificate shall be issued in respect of the registration. Registration unlawfully obtained.

(2) Upon the making of an order under subsection 1, the Registrar-General may require the delivery to him of every certificate previously issued in respect of the registration. Order for delivery of certificate.

(3) If the Registrar-General has reason to believe that a certificate in respect of a registration is being had or used for fraudulent or improper purposes, he may, after such notice to and the hearing of such interested parties as he considers proper, make an order requiring the delivery of the certificate to him. Certificate used improperly.

(4) Any person who has in his possession or under his control a certificate in respect of which an order has been made under subsection 2 or 3, shall forthwith deliver the certificate to the Registrar-General. 1948, c. 97, s. 47. Delivery of certificates.

48. No division registrar or sub-registrar and no person employed in the service of His Majesty shall communicate or allow to be communicated to any person not entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any records containing information obtained under this Act. 1948, c. 97, s. 48. Secrecy.

PENALTIES

49.—(1) Every person who neglects or fails to give any notice, or to register or to furnish any statement, certificate or particulars respecting the birth, marriage, death, still-birth, divorce, adoption or change of name of any person as required by this Act, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. Failure to give notice or furnish particulars.

(2) If a division registrar fails to transmit to the Registrar-General any registration, or to make any return as required by this Act he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 and each succeeding week's continuance of failure to make the transmission or return shall constitute a new and distinct Neglect of division registrar to make returns.

offence; and the Registrar-General may refuse to issue a certificate for the payment of any fee due to the division registrar until the transmission or return is made. 1948, c. 97, ss. 49, 53.

False information.

50.—(1) Every person who wilfully makes or causes to be made a false statement in any notice, registration, statement, certificate, return or other document respecting any particulars required to be furnished under this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500 or to imprisonment for a term of not more than six months or to both fine and imprisonment; and every legally qualified medical practitioner who wilfully makes a false statement as to the cause of the death of any person, or represents himself as having been in attendance during the last illness of any person when in fact he was not called in attendance until after the death, shall, in addition to any penalty imposed by this Act, be subject to discipline by the Council of the College of Physicians and Surgeons of Ontario.

False information.

(2) Every person who wilfully makes, or causes to be made a registration of a birth, marriage, death or still-birth as having occurred in Ontario in respect of any person whose birth, marriage, death or still-birth did not occur in Ontario, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500 or to imprisonment for a term of not more than six months or to both fine and imprisonment. 1948, c. 97, ss. 50, 53.

Breach of secrecy provision.

51. Any person violating any of the provisions of section 48 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$200. 1948, c. 97, ss. 51, 53.

General penalty.

52. Every person guilty of any act or omission in violation of this Act for which no penalty is otherwise provided shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. 1948, c. 97, ss. 52, 53.

REGULATIONS

Regulations.

53. The Lieutenant-Governor in Council may make regulations,

- (a) prescribing the forms to be used in carrying out the provisions of this Act;
- (b) prescribing the duties of the Deputy Registrar-General and providing for the delegation to him of

such of the powers and duties of the Registrar-General as may be deemed necessary;

- (c) prescribing the duties of inspectors;
- (d) prescribing the system of filing of registrations;
- (e) prescribing the particulars of registrations to be entered in the indexes;
- (f) prescribing the duties of and records to be kept by the division registrars; 1948, c. 97, s. 54, cls. (a-f).
- (g) prescribing the conditions under which the division registrar shall state the cause of death on a burial permit; 1949, c. 108, s. 9 (1).
- (h) prescribing the information and returns to be furnished to the Registrar-General, and fixing the times when information and returns are to be transmitted;
- (i) fixing the times when division registrars shall forward registrations to the Registrar-General;
- (j) prescribing the duties of, and returns to be made by sub-registrars; 1948, c. 97, s. 54, cls. (g-i).
- (k) designating the persons who may have access to, or may be given information from the records in the Registrar-General's office or in a division registrar's office, and prescribing an oath of secrecy to be taken by such persons; 1948, c. 97, s. 54, cl. (j); 1949, c. 108, s. 9 (2)
- (l) for the registration of births, marriages, deaths, still-births, divorces, adoptions or changes of name in cases not otherwise provided for in this Act;
- (m) prescribing the fees to be paid for searches, certificates and anything done or permitted to be done under this Act and providing for the waiver of payment of any such fees in favour of any person or class of persons;
- (n) designating the officers who may sign registrations and notations;
- (o) prescribing the evidence on which the Registrar-General may register a birth, still-birth, marriage or death after one year from the date thereof;
- (p) prescribing the evidence on which the Registrar-General may make a registration of birth in the case of a child legitimated by the subsequent inter-marriage of his parents;

- (q) requiring the persons in charge of hospitals to make returns of the births of all children born in the hospitals;
 - (r) prescribing special forms for registrations in respect of Indians;
 - (s) providing that registrations in respect of Indians shall be kept separate from other registrations;
 - (t) authorizing every Indian-agent in Ontario to act *ex officio* as division registrar for the Indians under his jurisdiction;
 - (u) for the purpose of effectively securing the due observance of the Act, and generally for the better carrying out of the provisions thereof and obtaining the information required thereby. 1948, c. 97, s. 54, cls. (k-t).
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CHAPTER 413

The Vocational Education Act**1. In this Act,**Interpre-
tation.

(a) "board" means a board of education or the board of a high school;

(b) "county pupils" means pupils,

(i) who reside with their parents or guardians, or

(ii) who or whose parents or guardians are assessed for an amount equal to the average assessment of the ratepayers,

in that part of a county which is not within a city or separated town or within a high school or grade A or grade B continuation school district, but does not include pupils residing with their parents or guardians on land which is exempt from taxation for school purposes, who and whose parents or guardians are not assessed for, and do not pay, taxes for school purposes in a municipality in the county;

(c) "Minister" means Minister of Education;

(d) "perfect aggregate attendance" of pupils for a calendar year shall be calculated by multiplying the number representing the number of teaching days in the calendar year by the number representing the number of such pupils registered at the school during such calendar year and deducting therefrom the number of pupil-days' non-attendance caused by,

(i) quarantines,

(ii) observance of holy days,

(iii) deaths,

(iv) late registration owing to transfer or age of pupils,

(v) termination of registrations owing to transfer or age of pupils,

(vi) expulsions,

(vii) exclusions;

Rev. Stat.,
c. 94.

(e) "regulations" means regulations made under *The Department of Education Act* or this Act;

(f) "resident pupils" means pupils,

- (i) who reside with their parents or guardians, or
- (ii) who or whose parents or guardians are assessed for an amount equal to the average assessment of the ratepayers,

within the limits of a high school district or a grade A or grade B continuation school district in which a vocational school is established and maintained, but does not include pupils residing with their parents or guardians on land which is exempt from taxation for school purposes, who and whose parents or guardians are not assessed for, and do not pay, taxes for school purposes within the district. R.S.O. 1937, c. 369, s. 1; 1945 (2nd Sess.), c. 8, s. 33; 1947, c. 113, s. 1; 1948, c. 96, s. 1.

PART I

VOCATIONAL SCHOOLS ESTABLISHED BY BOARDS

Application
of Act.

2. This Part shall apply to all art, industrial and technical schools and courses established under Acts of the Legislature respecting high schools and technical schools and in operation on the 24th day of March, 1911; to the industrial and art schools and courses and to the technical, the agricultural, and the commercial high schools and high school courses established under *The Industrial Education Act* and under the regulations; and to the vocational schools and departments established under this Part. R.S.O. 1937, c. 369, s. 2.

Rev. Stat.,
1914, c. 276.

Establishing
vocational
schools.

3. Subject to the approval of the Minister, a board may establish and maintain a vocational school. 1948, c. 96, s. 2, *part*.

Courses of
study.

4. Subject to the approval of the Minister, a vocational school under this Part may provide,

- (a) pre-vocational school courses of study;
- (b) general full-time day courses of study;
- (c) part-time day courses of study;
- (d) special full-time day courses of study; and
- (e) evening courses of study. 1948, c. 96, s. 2, *part*.

5.—(1) Pupils entitled under *The High Schools Act* to admission to a day high school may be admitted to any vocational school under this Part.

Admission of pupils to vocational schools.
Rev. Stat., c. 165.

(2) Upon the recommendation of the vocational school principal and with the approval of the advisory committee, pupils who have successfully completed grade VII at a public or separate school may be admitted to any pre-vocational school course of study at a vocational school.

Admission to pre-vocational school courses.

(3) Subject to the regulations, pupils of 13 years of age and over who have been in attendance in auxiliary classes, or who are eligible for admission to such classes, may, with the approval of the Minister and upon an examination conducted subject to his direction, be admitted to special industrial schools established by a board for the purpose of giving vocational instruction to such pupils where it is found that they may be benefited by it.

Admission of pupils from auxiliary classes.

(4) Where the vocational school principal is satisfied that an adult is competent to receive instruction, the adult may, without regard to his school standing, be admitted,

Admission of adults.

- (a) to a special full-time day course of study;
- (b) to a part-time day course of study; or
- (c) to an evening course of study.

(5) Except with the consent of the Minister, a pupil enrolled in a full-time day course of study shall not be admitted to an evening course of study.

Restrictions on admission to evening courses.

(6) Where a pupil has,

- (a) attended pre-vocational school classes in a vocational school for at least one year; and
- (b) made progress in his course of study satisfactory to the principal,

Transfer from pre-vocational courses.

he may, upon the recommendation of the principal and with the approval of the Director of Vocational Education, transfer to any other course of study in the vocational school.

(7) Where a pupil has the right under this Act to attend,

Fees.

- (a) general or special full-time day courses of study; or
- (b) part-time day courses of study for apprentices under *The Apprenticeship Act*, or for adolescents under section 5 of *The Adolescent School Attendance Act*,

Rev. Stat., cc. 19, 6.

he shall be exempt from the payment of fees.

When fees payable.

(8) Notwithstanding subsection 7, where a pupil,

- (a) has completed grade VIII at a public or separate school; and
- (b) has attended a high or vocational school or collegiate institute or grade A or grade B continuation school, for at least six years,

he shall not be admitted to a vocational school except upon the payment of such fees as the board may prescribe but not exceeding the average cost per pupil for education in that vocational school. 1948, c. 96, s. 2, *part.*

Appointment and jurisdiction of committee.

6. Where, in accordance with the regulations, one or more schools or departments to which this Part applies are established by a board, the schools or departments shall be under the management and control of an advisory vocational committee appointed by the board. R.S.O. 1937, c. 369, s. 6.

Advisory vocational committee, how composed.

7.—(1) The advisory vocational committee provided for in section 6 shall be composed of eight or twelve persons, as the board may direct, the members of which shall be appointed by the board.

When eight members.

(2) When the number of persons is eight, the committee shall be composed of,

- (a) the chairman and three other members of the board, including the representative, if any, appointed by the board of public school trustees, the representative appointed by the board of separate school trustees, and one of the representatives, if any, appointed by the county council, or where a board of education is established, the chairman and three other members of the board, one of whom shall be the representative, if any, appointed by the separate school board, and another of whom shall be one of the representatives, if any, appointed by the county council;
- (b) two persons, not members of the board, who are engaged as employees in the manufacturing, agricultural, commercial or other industries carried on in the local municipality or in the county or district in which the school is situate; and
- (c) two other persons, not members of the board, who are employers of labour or directors of companies employing labour in manufacturing, agricultural, commercial or other industries carried on in the local municipality or in the county or district in which the school is situate.

(3) When the number of persons is twelve, the committee shall be composed of, When twelve members.

- (a) the chairman and five other members of the board, including the representative, if any, appointed by the board of public school trustees, the representative appointed by the board of separate school trustees and one of the representatives, if any, appointed by the county council, or where a board of education is established, the chairman and five other members of the board, one of whom shall be the representative, if any, appointed by the separate school board and another of whom shall be one of the representatives, if any, appointed by the county council;
- (b) three persons, not members of the board, who are engaged as employees in the manufacturing, agricultural, commercial or other industries carried on in the local municipality or in the county or district in which the school is situate; and
- (c) three other persons, not members of the board, who are employers of labour or directors of companies employing labour in manufacturing, agricultural, commercial or other industries carried on in the local municipality or in the county or district in which the school is situate. R.S.O. 1937, c. 369, s. 7.

8. Where a board of education has been established and the board of separate school trustees has not appointed a member of such board, the board of education shall appoint from among its members a representative or representatives to complete the number of representatives of the board on the advisory committee constituted under section 7 and the member so elected shall hold office until the expiry of the period for which he was elected or appointed to the board of education. R.S.O. 1937, c. 369, s. 8. Case where separate school not represented on board of education.

9.—(1) The first members of the advisory committee shall be appointed at the meeting of the board at which a school or department is established for which the advisory committee is to be appointed under this Part. Appointment of members of committee.

(2) The members of the advisory committee who are members of the board shall hold office until the expiry of the period for which they were elected or appointed to the board. Tenure of office of members who are members of board.

(3) The term for which the other members of the committee shall respectively hold office shall be fixed by the board but shall not exceed three years. Tenure of office of other members.

(4) The board, at its first meeting in each year after the establishment of the school or department, shall appoint a Filling vacancies caused by retirement.

sufficient number of members from each class to fill the vacancies caused by the expiry of the term of office of members appointed from that class.

Filling
other
vacancies.

(5) Every vacancy upon a committee occasioned by death, removal or other cause shall be filled by the appointment by the board of some person from the class in which the vacancy occurs, and every person so appointed shall hold office for the unexpired portion of the term of the member whose seat has become vacant.

Quorum.

(6) The presence of a majority of the members constituting a committee shall be a quorum at any meeting, and a vote of the majority of the quorum shall be necessary to bind a committee.

Chairman
voting.

(7) On every question other than the election of a chairman the chairman or presiding officer of the committee may vote with the other members of the committee, and any question on which there is an equality of votes shall be deemed to be negatived. R.S.O. 1937, c. 369, s. 9.

Co-opted
members.

10.—(1) The advisory committee may, at a meeting which has been specially called for that purpose and of which notice has been given in writing to all the members, appoint such additional members, hereinafter called co-opted members, as it may deem advisable, and members of the board may be so appointed, but an equal number of the persons so appointed shall be chosen from each of the classes mentioned in clauses *b* and *c* of subsection 2 of section 7 and in clauses *b* and *c* of subsection 3 of section 7.

Tenure of
office.

(2) The term for which co-opted members of the committee shall respectively hold office shall be fixed by the committee, but shall not exceed three years. R.S.O. 1937, c. 369, s. 10.

Qualifica-
tions of
members.

11. The members of the advisory committee appointed under this Part, including co-opted members, shall be British subjects, and shall be persons who, in the judgment of the board, are specially competent to give advice and other assistance in the management of the school or department under the charge of the committee. R.S.O. 1937, c. 369, s. 11.

Powers of
committee.

12.—(1) Subject to the approval of the Minister and the board, the advisory committee shall have authority to provide a suitable site and building and suitable equipment or to arrange for conducting the school or department in a high, public, separate or continuation school building or other building in the municipality, and to prescribe courses of study and provide for examinations and diplomas.

(2) Subject to the approval of the board, the committee may purchase for the use of any or all pupils textbooks and other school supplies, and either furnish the same to them free of charge or collect for the use thereof from such pupils or their parents or guardians a sum not exceeding 25 cents per month for each pupil to defray the cost thereof.

Purchase of
books and
supplies by
committee.

(3) Subject to the approval of the board, the committee shall select teachers and determine a schedule of salaries, report on every school or department under its charge, fix the fees payable by pupils in attendance, submit annually to the board at such date as the board may prescribe an estimate of the amount required to carry on the work of the school or department during the year, and generally do all other things necessary for carrying out the objects and intent of this Part with respect to any school or department under its management and control.

Powers
subject to
approval
of board.

(4) The board shall not refuse its approval of any report of the advisory committee without having given the committee an opportunity to be heard before the board and before any committee thereof to which the report is referred by the chairman of the advisory committee or by another member of the advisory committee appointed for that purpose.

When
approval
withheld.

(5) The secretary and other officers of the board shall be the officers of the advisory committee.

Officers
of the
committee.

(6) Subject to the approval of the Minister and the board, the advisory committee may appoint one or more officers with qualifications approved by the Minister to bring to the attention of employers and employees the work of the schools or departments, and to make the necessary arrangements between employers, employees, and the schools or departments for the conduct of part-time or co-operative classes, and, in general, to act as a co-ordinating officer between the local industries and the schools or departments, and every such person so appointed shall be subject to the control of the advisory committee.

Appoint-
ment of
co-ordinat-
ing officers.

(7) Subject to the approval of the Minister and the board, the advisory committee may appoint one or more officers qualified according to the regulations to collect and distribute information regarding available occupations and employments, and to offer such counsel to the pupils of the schools under the charge of the advisory committee as will enable them to plan intelligently for their vocational and educational advancement, and every person so appointed shall be subject to the control of the advisory committee. R.S.O. 1937, c. 369, s. 12.

Appoint-
ment of
vocational
guidance
officers.

Cost of establishing, equipping and maintaining a school.

13.—(1) Subject to the regulations the estimates of the committee of the cost of establishing, equipping and maintaining the school or department under its management and control, when and so far as they have been approved by the board, shall be included in the estimates of the board submitted to the council of the municipality for the year.

How provided.

(2) Subject to the regulations, the cost of establishing, equipping, furnishing, and maintaining, and of making additions, alterations or permanent improvements to every school established under section 3 or under *The Industrial Education Act*, being chapter 79 of the Statutes of Ontario, 1911, shall be provided for in the same manner as in the case of a high school. R.S.O. 1937, c. 369, s. 13 (1, 2).

Cost of education of county pupils.

(3) The cost of education of county pupils to be paid by the council of a county shall be calculated, ascertained and paid in the same manner, *mutatis mutandis*, as is provided in subsections 2, 3, 4, 5 and 6 of section 41 and sections 42 and 45 of *The High Schools Act* and as part of the county rates shall be levied in the following manner:

Rev. Stat., c. 165.

- (a) 50 per cent of the said cost by a levy upon and against the whole rateable property of the municipalities or portions of municipalities comprising that part of the county which is not within the limits of a high school or grade A or grade B continuation school district; and
- (b) the remaining 50 per cent thereof by a levy upon and against the whole rateable property, according to the last revised equalized assessment, of the municipalities or portions of municipalities which are not within a high school or grade A or grade B continuation school district and in which the county pupils reside or are assessed or the parents or guardians of whom are assessed, as the case may be, in the proportion which the perfect aggregate attendance of the county pupils who reside or are assessed or whose parents or guardians are assessed in such municipality or portion of a municipality bears to the perfect aggregate attendance of all county pupils. R.S.O. 1937, c. 369, s. 13 (3); 1939, c. 44, s. 18; 1945 (2nd Sess.), c. 8, s. 34; 1947, c. 113, s. 3; 1950, c. 73, s. 3 (1).

County pupils attending vocational school in city or town.

(4) Where county pupils from a county are attending a vocational school in a city or town situated in such county but separated therefrom for municipal purposes, the cost of education to be paid by the council of the county shall be

calculated, ascertained, levied and paid in the manner provided in subsection 3.

(5) Where county pupils from a county are attending a vocational school in a municipality in an adjacent county whether separated therefrom or not, and such school has been declared open to such county pupils in the manner provided in *The High Schools Act*, the cost of education to be paid by the council of the county shall be calculated, ascertained, levied and paid in the manner provided in subsection 3.

County pupils attending vocational school in adjacent county.

Rev. Stat., c. 165.

(6) The council of a county or of any municipality within the county may enter into an agreement with the board of education or high school board of any city or separated town in the county, or with the board of a high school district in an adjacent county, for the payment of the whole or any part of any fees which may be payable in respect of pupils from such county or municipality within the county attending a vocational school, or a vocational department of a combined high and vocational school, under the control of such board of education or high school board.

Agreement to be entered into.

(7) Where the council of a county enters into an agreement under subsection 6 the amount of such fees shall be levied in the manner set forth in subsection 3. 1938, c. 35, s. 38.

Fees, how levied.

(8) The cost of education of pupils attending a vocational school from another high school district or a continuation school district shall be calculated in accordance with subsection 1 of section 42 of *The High Schools Act*, except that legislative grants shall not be deducted as provided in clause c thereof, and shall be paid by the board of the high or continuation school district to the board operating the vocational school. 1950, c. 73, s. 3 (2).

Cost of pupils from other secondary school districts.

Rev. Stat., c. 165.

(9) Where not inconsistent with this Act, *The Boards of Education Act* and *The High Schools Act* shall apply in all matters concerning the operation and management of a vocational school or department, the property in connection therewith, the employment and retirement of teachers and other persons employed in such vocational schools or departments, and in any other matters whatsoever. R.S.O. 1937, c. 369, s. 13 (5).

Provisions of Rev. Stat., cc. 38, 165 to apply.

14. Subject to the regulations the Minister shall apportion all sums of money appropriated by the Legislature for the establishment and maintenance of schools or departments to which this Part applies. R.S.O. 1937, c. 369, s. 14.

Apportionment of legislative grant.

15. The regulations may provide as to any class of schools or departments for the qualifications of teachers, the courses of study, the character of the site, accommodations, and

Regulations.

equipment, the maximum and minimum fees that may be charged to pupils, and generally as to any matter relating to the conduct and efficiency of the schools and departments not herein expressly provided for. R.S.O. 1937, c. 369, s. 15.

Establishing evening courses in other centres.

16. Subject to the approval of the Minister, the advisory committee may also establish and conduct special evening courses in any centre in the county outside of the district over which it has jurisdiction. R.S.O. 1937, c. 369, s. 16.

PART II

PROVINCIAL TECHNICAL AND POLYTECHNICAL INSTITUTES

Establishing institutes.

17.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Minister may establish, maintain, conduct and govern schools for advanced technical training required in one or more branches of industry.

Agreements.

(2) For the purpose of subsection 1 the Minister may enter into an agreement with any organization representing one or more branches of industry.

Names of institutes.

(3) A school providing instruction in one branch of industry shall be known as a "provincial technical institute" and in more than one branch of industry as a "provincial polytechnical institute".

Naming institutes.

(4) The Minister shall designate the name of an institute. 1948, c. 96, s. 4, *part*.

Board and advisory committee.

18.—(1) A provincial technical institute shall be maintained and conducted by a board assisted by an advisory committee.

Appointment.

(2) The board and advisory committee shall be appointed by the Minister. 1948, c. 96, s. 4, *part*.

Board, advisory council and committee.

19.—(1) A provincial polytechnical institute shall be maintained and conducted by a board assisted by,

(a) an advisory council; and

(b) an advisory committee for each branch of industry in which training is given at the institute.

Appointment.

(2) The board, advisory council and advisory committees shall be appointed by the Minister. 1948, c. 96, s. 4, *part*.

Cost of establishing and maintaining institutes.

20. The cost of establishing and maintaining a provincial technical or polytechnical institute shall be borne and paid out of moneys appropriated by the Legislature or received

from Canada for the purposes of technical education, and out of moneys contributed by any organization which has entered into an agreement under subsection 2 of section 17. 1948, c. 96, s. 4, *part*.

21. The Lieutenant-Governor in Council may make regulations with respect to schools established under this Part, Regulations.

- (a) for the appointment and composition of boards, advisory councils and advisory committees and fixing the number of members thereof;
- (b) prescribing,
 - (i) the duties of boards, advisory councils or advisory committees, and
 - (ii) constitutions for advisory councils or advisory committees;
- (c) for the holding of meetings of boards, advisory councils or advisory committees, the manner in which the meetings are to be called and conducted and the procedure thereat;
- (d) for the election or appointment of a chairman and secretary of boards, advisory councils or advisory committees, and prescribing their duties;
- (e) authorizing a principal to designate the secretary of a board;
- (f) prescribing the qualifications and governing the appointment of principals and teachers;
- (g) prescribing the duties of inspectors, principals, teachers and pupils;
- (h) for the establishment of full-time day courses of study, special and part-time day courses of study and evening courses of study, but only where the approval of the Minister is obtained;
- (i) for the admission of pupils, and prescribing the terms and conditions of admission;
- (j) classifying persons who may be admitted from outside Ontario and fixing the amount of fees payable by each class and the manner of payment;
- (k) requiring pupils enrolled in a special or part-time day course of study or an evening course of study to pay tuition fees and authorizing boards to fix the amount thereof and the manner of payment;

- (l) requiring pupils to pay registration and laboratory fees and fixing the amount thereof and the manner of payment;
- (m) for the granting of diplomas and certificates of standing and prescribing the forms thereof. 1948, c. 96, s. 4, *part.*

Alternative admission requirements.

22. The board of a provincial technical or polytechnical institute may accept in lieu of any diploma or other requirement prescribed for admission to a course of study at the institute,

- (a) such evidence of academic standing or course of training as the principal and advisory committee deem equivalent thereto; or
- (b) evidence, satisfactory to the principal and advisory committee, that the applicant for admission is competent to undertake the course of study. 1948, c. 96, s. 4, *part.*

Terms, courses, subjects, textbooks and reference books.

23. The Minister may, for each provincial technical or polytechnical institute,

- (a) determine the number of terms and the dates each term commences and ends; and
- (b) prescribe the courses of study, subjects, time allotments for subjects, textbooks and reference books. 1948, c. 96, c. 4, *part.*

PART III

JOINT VOCATIONAL SCHOOL BOARDS IN SPECIAL VOCATIONAL SCHOOL DISTRICTS

Joint vocational school district, establishment of.

24.—(1) The Minister, upon the application of the boards of two or more municipalities made with the approval of the councils of the municipalities, may establish and designate the municipalities as a vocational school district for the purposes of this Act.

Application, by whom to be made.

(2) Where no board exists in a municipality, the application in respect of the municipality may be made by the board of public school trustees and the board of separate school trustees of the municipality, or if in the municipality there is only a board either of public school trustees or separate school trustees, the application may be made by such board.

Name of district.

(3) A vocational school district established under this section shall be known by such name as may be designated by the Minister. R.S.O. 1937, c. 369, s. 21.

25.—(1) There shall be appointed for every vocational school district established under section 24 a joint board of trustees to be known as "The.....Vocational School Board", composed of three members from each of the municipalities within the vocational school district and appointed in the following manner:

Board of trustees, appointment of.

- (a) In a municipality having a board, the three members shall be appointed by such board, two of the appointees to be members of the board;
- (b) In a municipality having no board but having a public school board and a separate school board, two members shall be appointed by the public school board, one of whom shall be a member of that board, and one member by the separate school board who shall be a member of that board;
- (c) In a municipality having no board and having a public school board only, three members shall be appointed by that board, two of whom shall be members of that board;
- (d) Where a vocational school district is composed of municipalities, any one or more of which is not separated from the county, the county council shall appoint three members to the vocational school board.

(2) The third member to be appointed under clauses *a*, *b* and *c* of subsection 1 and the three members to be appointed under clause *d* of subsection 1 shall be British subjects, of the full age of 21 years, who are interested in the development of vocational education and are engaged in either the manufacturing, agricultural, commercial or other industries of the municipality which they represent.

Qualification of members.

(3) All appointees under subsection 1 shall hold office for one year. R.S.O. 1937, c. 369, s. 22.

Term of office.

26. The board so created shall have the powers of the boards of education, high school boards, continuation school boards and the public and separate school boards for the vocational school district for the purposes of this Act, and shall be a corporation by the name of "The.....Vocational School Board". R.S.O. 1937, c. 369, s. 23.

Powers of board.

27.—(1) The council of any municipality included within the district, on the application of the board, may pass a by-law for borrowing money by the issue and sale of debentures for the purchase of a site and the erection of a school, and for the

By-laws passed by council on application of board.

extensions, equipment, improvements, repairs or furnishings, and it shall not be necessary that the by-law shall be submitted to the electors for their assent, but if the council of any of the municipalities refuses to pass the by-law it shall if requested by the board submit the by-law to a vote of the electors qualified to vote on money by-laws under *The Municipal Act*, and on the assent of such electors being obtained shall finally pass the by-law and issue the debentures if the other municipalities are likewise providing their share.

Rev. Stat.,
c. 243.

Amount of
debentures.

(2) The debentures may be for such amount and run such number of years, not exceeding 30, as the council may see fit. R.S.O. 1937, c. 369, s. 24 (1, 2).

Amount to
be raised.

(3) The amount to be raised respectively by the council of each municipality in the vocational school district for such purposes shall be the proportion that the population-assessment of the municipality bears to the sum of the population-assessments of all the municipalities constituting the vocational school district.

Interpre-
tation.

(4) In this section, "population-assessment" means the amount of the last revised assessment of a municipality multiplied by the population of the municipality and "population" has the same meaning as in *The Municipal Act*. 1944, c. 56, s. 23.

Rev. Stat.,
c. 243.

Contribu-
tions by
municipal
councils to
vocational
schools.

28. The councils of the municipalities comprising a vocational school district shall contribute to the maintenance of a vocational school erected under section 27 in the same proportion as is provided in subsection 3 of that section for the purposes enumerated in subsection 1 thereof, and the council of each municipality forming part of a vocational school district upon the request of the vocational school board within the district shall levy and collect in each year within its municipality in the same manner as other municipal taxes, the amounts determined by the vocational school board as necessary for the said purpose. R.S.O. 1937, c. 369, s. 25.

CHAPTER 414

The Voters' Lists Act

1. In this Act,

- (a) "board" means election board; Interpre-
tation.
- (b) "judge" means judge of the county or district court of the county or district and includes a junior or acting judge, but does not include a deputy judge;
- (c) "prescribed" means prescribed by this Act or by the regulations made under this Act;
- (d) "voter" means a person entitled to be a voter, or to be named in the voters' list as qualified to be a voter either at an election of a member of the Assembly or at any municipal election, as the case may be. R.S.O. 1937, c. 7, s. 1.

RULES AND FORMS

2.—(1) The Lieutenant-Governor in Council may pre- Rules and
forms.
scribe rules and forms of procedure for the purpose of better carrying out Parts I and II of this Act. R.S.O. 1937, c. 7, s. 2 (1); 1946, c. 89, s. 46 (1).

(2) The forms in the Schedule to this Act may be modified Forms.
or varied, but any such modification or variation shall be subject to the approval of the judge. R.S.O. 1937, c. 7, s. 2 (2).

APPLICATION OF PARTS

3.—(1) Parts I and III shall apply to towns, townships, Application,
Parts I and
III;
villages and, except as varied by Part II, to cities.

(2) Part II shall apply to every city in which a by-law Part II;
has been passed for taking the assessment at any time prior to the 30th day of September and fixing separate dates for the return and final revision of the assessment rolls for each ward or subdivision of a ward, as defined in the by-law.

(3) Part V shall apply to every part of Ontario, including Part V.
Indian Reserves, not comprised in an organized municipality.

(4) Territory comprised in a newly organized municipality Territory
without
assessment
roll.
for which there is no assessment roll shall for the purposes

of subsection 3 be deemed to be a portion of Ontario not comprised in an organized municipality.

Where list
destroyed
by fire or
accident.

(5) Where through accident, fire or otherwise a municipality has no assessment roll or voters' list prepared under Part I or II, the municipality shall for the purposes of this Act be deemed to be a part of Ontario not comprised in an organized municipality. R.S.O. 1937, c. 7, s. 3.

Fees and
expenses
paid by
Province.

4. The fees and expenses of the board, the revising officers and clerks, the clerks of municipalities and the clerks of the peace in connection with the revision of the lists for provincial elections under Parts III, IV and V shall be payable by the Province, and such fees and expenses shall be paid out of the Consolidated Revenue Fund to the persons entitled thereto upon the certificate of the chairman of the board and the Auditor of Criminal Justice Accounts. 1942, c. 39, s. 1, *part*.

Revising
officer's
decision
final.

5. The decision of the revising officer under Parts III, IV and V in regard to the right of any person to vote, or as to the right to enter on or strike from the lists the name of any person as a voter, shall be final. 1942, c. 39, s. 1, *part*.

Returning
officer to act
on receipt of
telegram in
lieu of actual
receipt of
writ.

Rev. Stat.,
c. 112.

6. Notwithstanding anything in this Act or *The Election Act* or any regulations passed pursuant to either of the said Acts, a returning officer in any electoral district, on being advised by the Clerk of the Crown in Chancery by telegraph that a writ for the holding of an election to the Assembly has been directed to him, shall forthwith commence his duties as prescribed by the said Acts and regulations, without waiting until he actually receives the writ. R.S.O. 1937, c. 7, s. 4.

PART I

LIST OF VOTERS AND COPIES

List of
voters in
three parts.

7.—(1) The clerk of each municipality shall, immediately after the return of the assessment roll in every year, make a correct list for each polling subdivision of the municipality in three parts (Form 1) of all persons appearing by the assessment roll or by the supplementary roll prepared by the assessor to be voters.

Arrange-
ment of
list.

(2) The list shall be made up alphabetically except in the case of a municipality the council of which has by resolution directed that the list be made up in order of street numbers or lot and concession numbers. 1950, c. 87, s. 1 (1).

(3) The first of the three parts shall contain the names of First part.
all persons appearing by the assessment roll to be voters at
both provincial and municipal elections.

(4) The second part shall contain the names of all persons Second part.
appearing by the assessment roll to be voters at municipal
elections, but not at provincial elections.

(5) The third part shall contain the names of all persons Third part.
appearing by the assessment roll or by the supplementary
assessment roll to be voters at provincial but not at municipal
elections.

(6) In a municipality having a population of not more When third
part to be
printed.
than 3,500, the third part of the list shall be printed with the
first and second parts but in other municipalities the third
part need not be printed and in that case the clerk of the
municipality shall prepare three copies of the third part and
deposit them in the office of the clerk of the peace.

(7) The clerk of the peace shall furnish copies of the third Clerk of
peace to
furnish
copies of
third part.
part or permit the inspection thereof under the like circum-
stances and upon payment of the like fees as in the case of
other documents kept or filed in his office.

(8) The name of the same person shall not be entered more Name to be
entered once
only on first
or second
part.
than once on the first or second part of the voters' list, except
that in the case of a municipality divided into wards the name
of the same person shall be entered upon the list as qualified
to vote at municipal elections in every ward in which he is
assessed for a sufficient amount to qualify him so to vote.

(9) Where a municipality is divided into polling subdivi- List for
polling sub-
divisions.
sions, lists shall be made for each subdivision.

(10) In the case of a person who is a municipal elector Entering
name of
husband
or wife of
person rated.
by reason of being the wife or husband of the person rated or
entitled to be rated for land as provided by *The Municipal*
Act, or by reason of being a farmer's daughter, the clerk shall
opposite the name of such person, in the proper column, insert
the letters "M.F.N.C." meaning that such person is entitled
to vote at municipal elections, but is not to be counted for the
purpose of determining representation in the county council. Rev. Stat.,
c. 243.

(11) Where the qualification of a person to be a voter at Where
qualification
in respect
of real
property.
a municipal election is in respect of real property, the clerk
shall, opposite the name of such person, insert in the proper
column the number of the lot or other proper description of
the parcel of real property in respect of which such person is
so qualified adding thereto where the person is so qualified in
respect of more than one lot or parcel, the words "and other
premises".

Farmer's son
and farmer's
daughter.

(12) In the case of a person being a farmer's son or a farmer's daughter, the clerk shall insert opposite the name, in the proper column, the words "Farmer's Son" or "Farmer's Daughter" or the letters "F.S." or "F.D.", as the case may be.

Entry
where voters
assessed in
several
divisions of
same ward.

(13) Where a ward is divided into polling subdivisions, and it appears by the assessment roll that a person is assessed in each of two or more polling subdivisions for property sufficient to entitle him to be a voter at a municipal election, the clerk shall enter his name in the list for one subdivision only, and shall insert opposite his name the words "and other premises", and where to the knowledge of the clerk the person resides in one of the subdivisions, his name shall be entered on the list for that subdivision.

Provision
where
property
partly in one
subdivision
and partly
in another.

(14) Where it appears by the assessment roll that a person is assessed for property within the municipality sufficient to entitle him to be a voter at a municipal election, but that the property lies partly within one subdivision and partly within another or others, the clerk shall enter the name of such person on the list of voters in only one of the subdivisions in which the property is situate, with the following words added: "Partly qualified in subdivision No.".

Entry in list
of person
assessed as
freeholder
or tenant.

(15) Where the word "Owner" or the letter "O", or the word "Tenant" or the letter "T", appears in the assessment roll opposite the name of a person entitled to be entered on the list, such word or letter shall be placed opposite the name of such person. R.S.O. 1937, c. 7, s. 5 (3-15).

Entries
of those
qualified as
jurors.

(16) The clerk in making out the voters' list shall in a separate column provided for the purpose, write or mark the letter "J" upon the voters' list opposite the name of every male person over 21 and under 70 years of age, who by the roll appears to possess the property qualification required to qualify him to serve as a juror, and the list shall show at or near the end of the second part the aggregate number of names of persons upon the list qualified to serve on juries, and in the case of cities and towns the list shall give the same information for each ward. R.S.O. 1937, c. 7, s. 5 (17); 1941, c. 55, s. 43.

Entries
of separate
school
supporters.

(17) The clerk shall in a separate column of the voters' list write or mark the letter "S" opposite the name of every person who in the assessment roll is shown as a separate school supporter and also after the name of the wife or husband of every such person if the wife or husband is shown by the roll to be a Roman Catholic. R.S.O. 1937, c. 7, s. 5 (18); 1950, c. 87, s. 1 (3).

8.—(1) The clerk of every township municipality, in making out the list shall insert therein a schedule (Form 1) containing the name, numbered consecutively, of every post office which by the assessment roll appears as the address of any person entered on the list, and in making out the list, shall, according to the form and in the proper column therefor, insert opposite the name of every voter entered on the list the consecutive number which according to the schedule is his post office address, so far as the address appears by the assessment roll, or is within the knowledge or belief of the clerk, but no appeal or complaint on the ground of any error, mistake or omission in or from the list in respect of any matter or thing directed to be inserted therein by this section, shall be made or allowed by or under this Act. R.S.O. 1937, c. 7, s. 7 (1).

Entry of
P.O. address
of voter.

(2) Where it appears by the assessment roll of a township that a person who is not resident in the township is entered upon the assessment roll and assessed for sufficient property to entitle him to vote at municipal elections in the township, such non-resident person at any time after the return of the assessment roll and before the printing of the voters' list by the clerk, may give notice in writing signed by him and verified by a statutory declaration, to the clerk requesting that the name of the non-resident person be entered on the voters' list for some other polling subdivision in the township than that in which he is so assessed, and thereupon the clerk may enter the name of the non-resident person on the list for any other polling subdivision so designated and after the name of the non-resident person shall enter the property in respect of which he is qualified to vote and the polling subdivision in which the property is situate. R.S.O. 1937, c. 7, s. 7 (2); 1950, c. 87, s. 3.

Entry of
non-resident
voter in
polling
subdivision
other than
where
qualified.

9. Immediately after the clerk has made the list, and within 30 days after the return of the assessment roll, the clerk shall cause at least 200 copies of the first and second parts of the list, and in a municipality having a population of not more than 3,500, the third part of the list to be printed in pamphlet form, and forthwith shall cause one of the printed copies to be posted up and to be kept posted up in some conspicuous place in his office, and deliver or transmit by post 15 copies to the clerk of the peace and two copies of the printed list,

Printing and
distribution
of list.

- (a) to each judge of the county or district court of the county or district to which for judicial purposes the municipality belongs;
- (b) to the head and every member of the council of the municipality;

- (c) to the sheriff;
- (d) to the clerk of the division court within whose division the municipality is partly or wholly situate;
- (e) to every postmaster in the municipality;
- (f) in a town, township or village, to every head teacher of a public or separate school in the municipality or the secretary or secretary-treasurer of the school board by which such teacher is employed;
- (g) to the registrar of deeds;
- (h) to the clerk of the council of the county in which the municipality is situate;
- (i) to the member of the House of Commons for the electoral district in which the municipality or any part thereof lies;
- (j) to the member of the Assembly for the electoral district in which the municipality or any part thereof lies; and
- (k) to every candidate for whom votes were given at the then last election of a member of the House of Commons and for the Assembly, respectively, for the electoral district in which the municipality or any part thereof lies, if the candidate requests the same in writing before the 1st day of July in each year. R.S.O. 1937, c. 7, s. 8; 1950, c. 87, s. 4.

Certificate
of clerk.

10.—(1) Upon each of the copies of the first part so delivered or sent there shall be a certificate (Form 2), over the name of the clerk, stating that the list is a correct list of all persons appearing by the assessment roll to be voters at provincial and municipal elections, and upon each of the copies of the second part so delivered or sent there shall be a certificate (Form 3), over the name of the clerk, stating that the list is a correct list of all persons appearing by the assessment roll to be voters at municipal elections only, and the certificates shall contain clauses calling upon all voters to examine the lists, and to take immediate proceedings to have omissions or errors corrected according to law. R.S.O. 1937, c. 7, s. 9 (1); 1950, c. 87, s. 5.

Endorse-
ment of
date.

(2) Upon the outside or cover of each of the copies so sent shall be printed or written conspicuously the date of the posting up of the list thus:

“This list was posted up in the Clerk’s Office
on the day of (*fill in date*), 19”.

R.S.O. 1937, c. 7, s. 9 (2).

11.—(1) The sheriff shall immediately upon receipt of his ^{Posting up.} copies cause one of them to be posted up in a conspicuous place in the court house; the clerk of the peace, upon receipt of his copies, shall cause one of them to be posted up in a conspicuous place in his office; every head teacher of a public or separate school shall post up one copy on the door of the schoolhouse; and every postmaster shall post up one copy in his post office.

(2) Where copies of the list have been sent to the secretary or secretary-treasurer of a school board instead of to the head ^{Duty of secretary-treasurer as to posting list.} teacher of a public or separate school, the secretary or secretary-treasurer shall act in place of the head teacher and shall post up one copy of the list on the door of every schoolhouse under the control of the board. R.S.O. 1937, c. 7, s. 10.

12. The clerk shall also forthwith cause to be inserted at least once in a newspaper published in the municipality or in case none is published therein, then in a newspaper published either in the nearest municipality in which one is published, or in the county or district town, a notice (Form 4) signed by him, which shall state that he has delivered or transmitted the copies of the list as directed by this Act, and the date of the first posting up of the list in his office, and the last day for entering appeals. ^{Notice of transmission and posting up of list.} R.S.O. 1937, c. 7, s. 11.

REVISION OF FIRST AND SECOND PARTS OF LIST

13.—(1) The first and second parts of the lists shall be ^{Revision of list by judge.} subject to revision by the judge at the instance of any voter who complains that the names of voters have been omitted from the list, or wrongly stated therein, or that the names of persons who are not entitled to be voters have been entered on either of the parts and the following provisions of this Part and of Part II, so far as they are applicable, shall apply to the revision of the first and second parts of the list.

(2) Upon the revision the finally revised assessment roll ^{Assessment roll not conclusive.} shall not be conclusive evidence in regard to any matter.

(3) Upon the revision no person shall be disentitled to have ^{Idem.} his name entered on the list by reason of his having omitted to make, sign or deliver any statement or affidavit required by *The Assessment Act*, or of his name not having been entered ^{Rev. Stat., c. 24.} on the assessment roll.

(4) The decision of the judge in regard to the right of any ^{Judge's decision final.} person to vote, or as to the right to enter on or strike from the list the name of any person as a voter, shall be final.

(5) In the case of a list for a town, village or township, the judge shall receive as evidence in support of an application ^{When evidence by affidavit receivable.}

to have the name of a person entered on the list, the affidavit of such person or of some other person who has, and deposes that he has, personal knowledge of the matter set forth in the affidavit (Form 5), if the affidavit is made not earlier than the 10th day next preceding the last day for making complaints to the judge and is delivered to the clerk before the time for making complaints has expired. R.S.O. 1937, c. 7, s. 12.

Who may
appeal or
complain.

14.—(1) Any voter whose name is entered on or who is entitled to have his name entered on the list for the municipality shall have the right for all purposes of this Act, upon giving notice in writing (Form 6) within 14 days after the clerk has posted up the list in his office, to apply, complain or appeal to have his own name or the name of any person corrected in, entered on or removed from the first or second part of the list. R.S.O. 1937, c. 7, s. 13 (1); 1950, c. 87, s. 6.

Persons
who have
acquired
qualification
before time
for giving
notice has
expired.

(2) Any person who has acquired the qualification entitling him to vote at a municipal election before the time for giving the notice of appeal to the judge has expired shall be deemed to be a person entitled to be entered on the list, and if entered thereon, he shall be entered also on the assessment roll, and shall be assessed for his property if not already assessed therefor, without any request on his part, and the judge and clerk shall for the purposes of such assessment have the powers and perform the duties mentioned in section 41.

Complaint
that person
named on
list has lost
qualifica-
tion.

(3) A person whose name is entered on the first or second parts of the list and has, before the time for giving notice of appeal to the judge has expired, ceased to possess the qualification in respect of which his name was so entered, on complaint being duly made under section 16, shall be deemed to be wrongfully entered on the list and subject to the provisions of section 18, his name shall be removed therefrom. R.S.O. 1937, c. 7, s. 13 (2, 3).

Powers of
judge.

15. The judge may, without a previous notice of appeal or complaint, on an application made by or on behalf of any person entered on the first or second part of the list, correct any mistake which appears to have been made in compiling the list in respect of the name, place of abode, qualification, or of the local or other description of the property of a person entered on the list, and with respect to whose right to be so entered an appeal or complaint is pending before the judge. R.S.O. 1937, c. 7, s. 14.

Proceedings
on complaint
of errors
in list.

16.—(1) A voter making a complaint in respect of the list shall, within 14 days after the clerk has posted up the list in his office, give to the clerk or leave for him at his residence or

place of business, notice in writing (Form 6) of his complaint. R.S.O. 1937, c. 7, s. 15 (1); 1950, c. 87, s. 7.

(2) If the office of clerk is vacant, the notice may be given in like manner to the head of the council of the municipality, and he shall perform all the duties of the clerk. Vacancy in office of clerk.

(3) The proceedings thereafter by the judge, clerk and the parties respectively, and the powers and duties of the judge, clerk and other persons and the allowances and expenses payable to the judge shall be the same, as nearly as may be, as in the case of an appeal from the court of revision under *The Assessment Act*; but no deposits shall be required. (See Forms 6-11.) Procedure as in appeal from court of revision. Rev. Stat., c. 24.

(4) The clerk shall forthwith after posting up the list of appeals in his office, deliver or transmit by post, by registered post, or by parcel post registered, one copy of the list to the judge and to the clerk of the peace and to each of the persons described in clauses *b*, *i*, *j* and *k* of section 9. R.S.O. 1937, c. 7, s. 15 (2-4). Distribution of list of appeals.

17.—(1) Any person may obtain from the county or district court of the county or district a subpoena (Form 12), or from the judge an order, requiring the attendance at court for hearing complaints at the time mentioned in the subpoena or order of a witness residing or served with the subpoena or order in any part of Ontario and requiring the witness to produce any papers or documents mentioned in the subpoena or order, and every witness served with the subpoena or order shall obey the same, provided his expenses according to the scale allowed in division courts are paid or tendered to him at the time of service. R.S.O. 1937, c. 7, s. 16 (1). Compelling attendance of witnesses.

(2) Any person in respect of the entry or omission of whose name a complaint is made, shall, if resident within the municipality for or in which the court is held, upon being served with subpoena or order obey the same without being tendered or paid his expenses, and the subpoena or order shall be deemed to have been sufficiently served, Compelling attendance of persons whose right is in question.

- (a) if the subpoena or order is served upon him personally; or
- (b) where he has a known residence or place of business within the municipality, if a copy of the subpoena or order is left for him with some adult person at his residence or place of business; or
- (c) where he has a known residence or place of business within the municipality, if a copy of the subpoena or order, at least six days before the sitting of the court, is mailed to him by registered letter, directed to him

Rev. Stat.,
c. 24.

at the post office address contained in any affirmation made by him under *The Assessment Act*, and where no such affirmation has been made, directed to him at his last-known post office address, and also by separate registered letter directed to the post office described as his post office in the voters' list unless the last-mentioned post office is his last-known post office address, or in the case of cities, towns and villages if no post office is described for him in the voters' list, directed to the post office of such city, town or village; or

- (d) where he is a farmer's son, if a copy of the order or subpoena is left for him with some person at the residence of the farmer whose son he is. R.S.O. 1937, c. 7, s. 16 (2); 1942, c. 39, s. 2.

Penalty for
non-attend-
ance.

(3) If a person whose right to be a voter is the subject of inquiry does not attend in obedience to the subpoena or order, the judge, in the absence of satisfactory excuse being shown for the non-attendance or of proof of right of the person to be a voter, may, on the ground of his non-attendance, strike his name off or refuse to enter his name on the list or impose on him a fine of not more than \$20, or may do both.

Prima facie
evidence
of certain
facts.

(4) The fact that the name of the person is entered on the last revised voters' list of the electoral district shall be *prima facie* evidence that he is a British subject and 21 years of age.

Number
of names.

(5) The names of any number of witnesses may be inserted in one subpoena or order. R.S.O. 1937, c. 7, s. 16 (3-5).

When
qualification
incorrectly
stated.

18. If on complaint or appeal to strike off the name of a person on the list it appears that the qualification of the person is incorrectly set forth therein, but that he has the qualification necessary to entitle his name to be entered on the list, the judge shall not strike off the name of the person, but shall make such alterations in the list as are necessary to set forth the proper qualifications of the person, and in so doing may, if the name has not been entered on the proper part of the list, enter it thereon. R.S.O. 1937, c. 7, s. 17.

Time within
which list to
be revised.

19. The judge shall so arrange and proceed and fix the sittings of the court that all the complaints shall be heard and determined and the first and second parts of the list finally revised, corrected and certified within one month from the last day for making complaints. R.S.O. 1937, c. 7, s. 18; 1950, c. 87, s. 8.

20.—(1) If no complaint is made within 14 days after the clerk has posted up the list in his office, he shall forthwith deliver either in person or by letter to the clerk of the peace his report (Form 13), and the clerk of the peace shall thereupon certify (Form 14) a sufficient number of copies of the first and second parts of the list as being the last revised list of persons entitled to be voters at elections to the Assembly as well as at municipal elections, and of persons entitled to vote at municipal elections only in the municipality to furnish one copy of the list,

Certifying list by clerk of the peace when no complaint made.

- (a) to the judge;
- (b) to the clerk of the peace;
- (c) to the clerk of the municipality;
- (d) to the member of the House of Commons for the electoral district in which the municipality or any part thereof lies;
- (e) to the member of the Assembly for the electoral district in which the municipality or any part thereof lies; and
- (f) to every candidate for whom votes were given at the then last election of a member for the House of Commons and the Assembly respectively for the electoral district in which the municipality or any part thereof lies. R.S.O. 1937, c. 7, s. 19 (1); 1950, c. 87, s. 9.

(2) The clerk of the peace shall certify each of such copies and shall retain one and shall deliver or transmit by post, one copy to each of the persons mentioned in clauses *a*, *c*, *d*, *e* and *f* of subsection 1. R.S.O. 1937, c. 7, s. 19 (2).

Certificate of clerk of the peace.

21.—(1) If any complaint is made and allowed by the judge he shall immediately after the list has been finally revised, certify (Form 15) to the clerk a statement of the changes made by him in the list.

Statement of changes made by judge.

(2) The clerk shall thereupon prepare a sufficient number of copies of the statement of changes made by the judge to furnish one copy for each of the persons mentioned in clauses *a*, *c*, *d*, *e* and *f* of subsection 1 of section 20, and shall within one week after the revision has been made by the judge transmit or deliver such copies of the statement of changes, together with the certificate of the judge, to the clerk of the peace, and such statement shall be made out according to polling subdivisions and shall show the changes made in the list for each polling subdivision.

Delivery of copies of revised list.

Certificate
of clerk of
the peace
on copies.

(3) The clerk of the peace shall thereupon sign and certify (Form 16) such copies together with a copy of the voters' list received by him from the clerk under section 9 and shall return one copy to the clerk and deliver or transmit by registered post one copy to each of the persons mentioned in clauses *a*, *c*, *d*, *e* and *f* of subsection 1 of section 20. R.S.O. 1937, c. 7, s. 20 (1-3).

Delivery and
certification
of copies of
revised list.

(4) Instead of proceeding as provided in subsections 1, 2 and 3, the judge may direct the clerk to prepare a sufficient number of copies of the list as revised by the judge to furnish one copy for each of the persons mentioned in clauses *b*, *c*, *d*, *e* and *f* of subsection 1 of section 20, and the clerk shall within one week after the revision has been made transmit or deliver such copies to the judge, and the judge shall thereupon sign and certify (Form 17) such copies and shall retain one and shall deliver or transmit by post, one copy to each of the persons mentioned in clauses *b* to *f* of subsection 1 of section 20. R.S.O. 1937, c. 7, s. 20 (4); 1938, c. 37, s. 27 (2).

Remunera-
tion of
clerk of
the peace.

22. The clerk of the peace shall be entitled to remuneration at the rate of \$1 per copy for the services performed by him under subsection 2 of section 20 and subsection 3 of section 21, such remuneration to be paid by the municipality. 1942, c. 39, s. 3.

Striking
off names
of persons
dying after
revision.

23.—(1) After the list has been certified and before the nomination day at any municipal election, the judge may, upon the application of a voter, strike from the list the name of any person who has died since the list was certified, and for that purpose the certificate of the Registrar-General shall be sufficient evidence of death, but if the identity of the person proved to be dead with the person whose name is sought to be struck off is disputed or open to reasonable doubt, proof of the identity shall be required. R.S.O. 1937, c. 7, s. 21 (1), *amended*.

Procedure.

(2) The proceedings shall be the same as nearly as may be as those which are prescribed for the revision of the list, and the judge and the officers named in this Act shall have the same jurisdiction as in the case of proceedings to revise the list under this Act. R.S.O. 1937, c. 7, s. 21 (2).

Correction
of lists after
revisions of
assessment
roll.

24. If the assessment roll is not certified by the court of revision or revised by the judge before the time limited for the final revision, correction and certifying of the voters' list by the judge, and upon appeal to the court of revision or to the judge alterations are made in the assessment roll affecting the right of any person to be entered on the list, the court of

revision shall forthwith after certifying the roll and the judge shall forthwith after revising the roll, make out and certify a list of such alterations and deliver it to the clerk who shall make corresponding changes in the certified copies of the revised list, and the judge shall initial the changes. 1950, c. 87, s. 10.

25. The certified list shall under *The Municipal Act* be final and conclusive evidence that all persons named therein, and no others, were qualified to vote at any municipal election at which such list was, or was the proper list to be used except, Effect of certified list. Rev. Stat., c. 243.

- (a) persons guilty of corrupt practices at or in respect of the election in question, or since the list was certified by the judge;
- (b) persons who, subsequent to the list being certified, have ceased to be qualified to vote at a municipal election in the municipality to which the list relates and who by reason thereof are, under *The Municipal Act*, disentitled to vote;
- (c) persons whose names are entered on the list under the authority of a certificate issued pursuant to subsection 7 of section 58 of *The Municipal Act*. R.S.O. 1937, c. 7, s. 22.

26.—(1) The corporation of the municipality within which a court is to be held shall provide a suitable and convenient place, properly furnished, heated and lighted, for the holding of the court, and in default thereof the judge may hold the court at such place in the county or district as he may deem proper and if the court is held elsewhere than in the court house of the county or district, the occupant of the building in which it is held may recover from the corporation the sum of \$5 for each day on which the building was used for the purposes of the court. Duty of municipality to provide room.

(2) Every court held in the county or district town shall be held in the court house, or in such other place as the judge may deem proper. R.S.O. 1937, c. 7, s. 23. Courts in county towns.

27. In all proceedings before the judge he shall have all the powers which belong to or might be exercised by him in the county court. R.S.O. 1937, c. 7, s. 24. Powers of judge.

28. The clerk of every municipality shall be subject to the summary jurisdiction and control of the judge in the performance of his duty under this Act in the same manner as an officer of the county court is to the court. R.S.O. 1937, c. 7, s. 25. Clerk.

Remuneration of clerk in connection with complaints.

29.—(1) The clerk shall be entitled to the actual and reasonable disbursements necessarily incurred by him in the discharge of the duties imposed upon him by this Act, and shall also be entitled to the following compensation:

1. For the name of every person entered in the list of complaints. \$.05
2. For every name entered in any necessary copy of the list of complaints.05
3. For every name entered or other correction made by the judge in the voters' list, and in every copy of the list revised.05
4. For every name in the statement of change made by the judge in the list.05
5. For every necessary notice to any party complaining or complained against.15
6. For every mile necessarily and actually travelled by him in effecting service of a notice of appeal or complaint and in attendance at the hearing of complaints or appeals. .08
7. For every day's attendance at the sittings of the court 5.00

R.S.O. 1937, c. 7, s. 26 (1); 1942, c. 39, s. 4 (1).

Remuneration of assessor.

(2) The assessor shall be entitled to all reasonable disbursements actually incurred by him in the discharge of any duties imposed upon him under this Act and to an allowance of \$5 per diem for every day's attendance at the court and to eight cents for every mile necessarily and actually travelled by him to attend at the hearing of complaints or appeals. R.S.O. 1937, c. 7, s. 26 (2).

Remuneration, how paid.

(3) The compensation under this section shall be paid by the municipality upon the certificate of the judge. 1942, c. 39, s. 4 (2).

Appointment of constable.

30.—(1) The judge shall have power to appoint a proper person to attend as constable at the sitting of the court, and the duties and powers of such person shall be as nearly as may be the same as those of a bailiff at a sitting of a division court.

Constable's fees.

(2) The person acting as constable shall be entitled to the following compensation:

1. For every day's attendance. \$4.00

2. For every service of any process or notice, including the receipt and return thereof, and all other duties connected therewith when allowed by the judge, a sum not exceeding 20 cents per mile one way for each mile actually and necessarily travelled to effect such service. R.S.O. 1937, c. 7, s. 27.

31. The compensation to which the clerk, assessor and constable are respectively entitled shall be certified by the judge and paid to the clerk, assessor and constable respectively by the treasurer of the municipality upon the production and deposit with him of the judge's certificate. R.S.O. 1937, c. 7, s. 28. Payment of fees.

32. If the judge who holds the court is of the opinion that any person has contravened section 46 or 48, or that frauds in respect to the assessment or the list have prevailed extensively in the municipality, he shall report the same to the Attorney-General, with particulars as to names and facts. R.S.O. 1937, c. 7, s. 29. Report by judges as to frauds, etc.

33. The judge may amend any notice or other proceeding upon such terms as he may think proper. R.S.O. 1937, c. 7, s. 30. Amendments.

34. If an appellant or complainant dies or abandons his appeal or complaint or is found not to be entitled to be an appellant, the judge may in his discretion allow any other person who might have been an appellant or complainant to intervene and prosecute the appeal or complaint, upon such terms as the judge may think just. R.S.O. 1937, c. 7, s. 31. Substitution of new appellant.

35.—(1) If errors are found in the voters' list on the revision thereof, in the omission of names, the inaccurate entry of names, or the entry of names of persons not entitled to vote, and it appears to the judge that the assessor or clerk was blamable for any of the errors, the judge may order (Form 18) the assessor or clerk respectively to pay all costs occasioned by such errors. Costs occasioned by errors.

(2) In case of errors for which the court of revision is blamable, the judge may order the municipality to pay the costs occasioned by such errors. Order for payment by municipality.

(3) In all cases not herein provided for, the costs shall be in the discretion of the judge. R.S.O. 1937, c. 7, s. 32. Discretion of judge.

36. The costs to be allowed on any proceeding under this Act shall be according to the lowest scale of costs in an action in a division court. R.S.O. 1937, c. 7, s. 33. Scale of costs.

Liability
of appellant
for costs.

37. An unsuccessful appellant or complainant shall be liable to pay the witness fees only, unless in the opinion of the judge the complaint or appeal is frivolous or vexatious, or has not been made in good faith, when the judge may order the appellant or complainant to pay in addition any other costs allowed by section 36. R.S.O. 1937, c. 7, s. 34.

Enforcing
payment of
costs.

38. Payment of costs may be enforced by an execution (Form 19) against goods and chattels, to be issued from the division court of the division within which the municipality or part thereof is situate, upon filing therein the order of the judge, and an affidavit showing the amount at which the costs have been allowed and the non-payment thereof. R.S.O. 1937, c. 7, s. 35.

REFERENCE TO COURT OF APPEAL

Stating case.

39.—(1) In order to facilitate uniformity of decision without the delay and expense of appeals,

- (a) a judge may state a case on any question arising or likely to arise, and may transmit it to the Lieutenant-Governor in Council, who may immediately refer it to the Court of Appeal for the opinion of the court; or
- (b) the Lieutenant-Governor in Council may state a case on any such question to the Court of Appeal for the opinion of the court.

Time and
place of
argument.

(2) Immediately upon receipt of the case it shall be the duty of the court to appoint a time and place for hearing argument, of which written notice shall be given by the Registrar of the Supreme Court posting up a copy of the notice in his office in Osgoode Hall, Toronto, at least 10 clear days before the time appointed.

Hearing.

(3) At the time appointed the court shall hear the argument by such of the counsel present as the court may think fit to hear, and shall certify to the Lieutenant-Governor in Council the opinion of the court thereon, and the opinion shall forthwith be published in *The Ontario Gazette*, and a copy of the opinion shall forthwith be sent to the judge of every county and district court. R.S.O. 1937, c. 7, s. 36.

Opinion
at instance
of voter.

40. The Court of Appeal may also give an opinion on any question at the instance of any voter, if the court sees fit and the proceedings with respect thereto shall be, as nearly as may be, the same as upon a case referred; but the court or a judge thereof may require a deposit of money to cover the costs of hearing the question argued by counsel, and may require notice of the proceedings, or any of them, to be given

to such person as the court or judge may direct. R.S.O. 1937, c. 7, s. 37.

LIABILITY FOR TAXES OF PERSONS WHOSE NAMES ARE ADDED

41. If any person who is found entitled to be a voter at municipal elections is not assessed, or is insufficiently assessed, the judge shall enter the name of such person on the roll together with the other particulars required by *The Assessment Act* to be set opposite the name of the person assessed including the value of the property in respect of which the assessment is made, which shall be determined by the judge, and corresponding corrections shall be made by the clerk in the collector's roll. R.S.O. 1937, c. 7, s. 38.

Liability of persons whose names are added to roll on revision.
Rev. Stat., c. 24.

FAILURE OF CLERK TO PERFORM HIS DUTIES

42. The non-performance by the clerk of any of his duties under this Act within the times appointed shall not affect the validity of any list. R.S.O. 1937, c. 7, s. 39.

Lists not vitiated by failure of clerk to perform duties.

43.—(1) In case the clerk fails to perform any of his duties, the clerk of the peace shall forthwith apply summarily (Form 20) to the judge to enforce the performance of the same.

Summary application to enforce performance of duties.

(2) The application may also be made by any voter.

Application by voter.

(3) The judge shall require (Form 21) the clerk and any other person he sees fit to appear before him and produce the assessment roll and any documents relating thereto or to the list, and to submit to examination on oath, and may thereupon make such order and give such directions as he may deem proper.

Proceedings by judge.

(4) The clerk shall pay the costs of the proceedings, unless on special grounds the judge shall otherwise order, in which case the judge may direct how and by whom the costs shall be paid.

Liability of clerk for costs.

(5) The proceedings and order of the judge shall not relieve the clerk from the penalty hereinafter mentioned. R.S.O. 1937, c. 7, s. 40.

Clerk's liability to penalty.

44. Every clerk who omits, neglects or refuses to perform any of the duties hereinbefore required of him shall be guilty of an offence and for every such omission, neglect or refusal shall be liable to a penalty of \$200. R.S.O. 1937, c. 7, s. 41.

Penalty for neglect of duties by clerk.

45. The wilful alteration of, omission from, incorrect entry in, or falsification of a certified list or copy thereof shall be an offence, and any clerk of a municipality, clerk of the

Penalty for wilfully falsifying lists.

peace or other person who commits such offence, or wilfully permits it to be committed, shall be liable to a penalty of not less than \$500 and not more than \$2,000 and in addition thereto may be imprisoned for a term of not more than three months. R.S.O. 1937, c. 7, s. 42.

COLOURABLE TRANSFER OF PROPERTY

Colourable
transfer of
property.

46.—(1) No person shall be a party to any instrument or to any verbal arrangement whereby a colourable qualification is conferred or sought to be conferred upon himself or any other person in order to enable him to become a voter.

Penalty.

(2) Every person violating the provisions of this section, beside being liable to any other penalty prescribed in that behalf, shall be liable to a penalty of \$100.

Procuring
commission
of offence.

(3) Every person who induces or attempts to induce another to commit an offence under this section shall be liable to a like penalty. R.S.O. 1937, c. 7, s. 43.

CREATION OF FALSE VOTES

Inquiries by
assessor.

47. To prevent the creation of false votes, where a person claims to be assessed, or to be entered or named in an assessment roll, or claims that another person should be assessed, entered or named in an assessment roll so as to entitle him to be a voter, and the assessor has reason to suspect that the person so claiming, or for, or in respect to whom the claim is made, ought not to be so assessed, or so entered or named in the roll, it shall be the duty of the assessor to make reasonable inquiries before assessing, entering or naming any such person in the assessment roll. R.S.O. 1937, c. 7, s. 44.

Improper
insertion
of name
in roll.

48. Every person who wilfully and improperly enters or procures or causes to be entered the name of a person in an assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent to give to a person not entitled thereto, either the right or an apparent right to be a voter, or who wilfully enters or procures or causes to be entered a fictitious name in an assessment roll, or who wilfully and improperly omits, or procures or causes to be omitted the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount with intent to deprive a person of his right to be a voter, shall be guilty of an offence and liable to a penalty of \$200. R.S.O. 1937, c. 7, s. 45.

RECOVERY OF PENALTIES

49. Any penalty mentioned in sections 44 to 48 shall be recoverable upon summary conviction before a magistrate or the judge of a county or district court. R.S.O. 1937, c. 7, s. 46. Recovery of penalties.

INSPECTION AND COPIES OF DOCUMENTS

50. A voter and an agent of a voter may, at all reasonable times and under reasonable restrictions, inspect and take copies of or extracts from assessment rolls, notices, complaints, applications and other documents and proceedings necessary or of use for carrying out the provisions of *The Municipal Act*, *The Assessment Act* or this Act, and the clerk for the said purposes shall accord all reasonable facilities which may be consistent with the safety of the documents, and the rights and interests of all persons concerned, and shall in regard to the matters aforesaid be subject to the direction of the judge. R.S.O. 1937, c. 7, s. 47. Right to inspect and copy assessment rolls, etc.
Rev. Stat., c. 243, 24.

51. The fees payable to the clerk of the peace and to the clerk of the municipality for furnishing copies of a list or any part of a list shall be those fixed by the Lieutenant-Governor in Council under *The Election Act*. R.S.O. 1937, c. 7, s. 48. Fees for copies of lists.
Rev. Stat., c. 112.

PART II

PREPARATION OF WARD LISTS

52. Immediately after the return by the assessor of the assessment roll for any ward or subdivision of a ward, and without waiting for the revision and correction of the roll by the court of revision or by the judge, the clerk of every city to which this Part applies shall prepare and print the first and second parts of the voters' list and shall prepare the third part of the voters' list for such ward or subdivision in the manner prescribed by Part I. R.S.O. 1937, c. 7, s. 49. Preparation of list where roll returned and revised by wards.

53.—(1) Forthwith after the preparation and printing of the last of such lists the clerk shall post up and distribute each of the lists for each ward or subdivision in the manner prescribed by Part I, and forthwith after the clerk has posted up the lists in his office, he shall cause a notice to be inserted once a week for three weeks in such daily newspapers published in the city as may be directed by the judge, calling upon persons who are aware of errors or omissions in the lists, or of changes which have been rendered necessary by reason of the death or removal of any person named therein, or by reason of any person having acquired the necessary qualifications as Posting up and distributing lists.

a voter since the return or final revision of the assessment roll for any such ward or subdivision of a ward to give notice of the same, and shall name a time and place at which the judge will hold a court for revising the lists for the whole city. R.S.O. 1937, c. 7, s. 50 (1).

Time for making complaints.

(2) The time for making complaints as to errors or omissions in the lists shall be within 14 days after the first publication of the notice. R.S.O. 1937, c. 7, s. 50 (2); 1950, c. 87, s. 11.

Time for final revision of lists.

54. The judge shall so arrange and proceed and so fix the sittings of the court for hearing complaints against or in respect of the lists that the complaints shall be heard and determined and the lists finally revised and certified in the manner provided by Part I before the day fixed for the nomination meeting. R.S.O. 1937, c. 7, s. 51; 1950, c. 87, s. 12.

Certifying list where no complaint made.

55. If no complaint respecting any of the lists is received by the clerk within 14 days after the first publication of the notice the clerk shall forthwith apply to the judge to certify three copies of each of the lists as being the last revised list of voters for the ward or subdivision, and the judge shall certify such three copies and retain one, and deliver, or transmit by registered post, one to the clerk of the peace, and one to the clerk of the municipality, to be kept by him among the records of his office. R.S.O. 1937, c. 7, s. 52; 1950, c. 87, s. 13.

Procedure where complaints are made.

56.—(1) If any complaint is made as aforesaid with respect to any of the lists within such period, the judge shall proceed as provided by section 21, and sections 23 and 25 shall apply to the list prepared under this Part.

When changes made in assessment roll subsequent to preparation of list.

(2) If the assessment roll is not finally revised before the final revision and certifying of the lists by the judge, and upon appeal to the judge from the court of revision alterations are made in the assessment roll affecting the right of any person to be entered on any of the lists, the judge shall forthwith after the final revision of the roll, make out a list of such alterations and deliver it to the clerk, who shall make corresponding changes in the certified copies of the revised list, and the judge shall initial the same, and a copy of the list of alterations shall be posted up by the clerk in his office. R.S.O. 1937, c. 7, s. 53.

Effect of lists as completed.

57. Subject to subsection 7 of section 58 of *The Municipal Act*, the lists as so revised, corrected and certified by the judge shall together form from time to time the last revised voters' list for the city within the meaning of this Act and

The Municipal Act, and the date fixed by section 55 as the last day for making complaints to the judge shall be deemed to be the last day for making complaints to the judge within the meaning of any oath prescribed by the said Act and such date shall be inserted in any such oath when the voting is upon a list prepared under this Part. R.S.O. 1937, c. 7, s. 54.

Rev. Stat.,
c. 243.

PART III

PRINTING AND DISTRIBUTION OF THIRD PART OF VOTERS' LIST AND REVISION OF LISTS FOR PROVINCIAL ELECTION

58.—(1) Where the third part of any voters' list has not been printed but has been deposited with the clerk of the peace, he shall, when directed in writing by the chief election officer, cause the lists so deposited with him to be printed, and shall transmit the same as printed to the clerk of the municipality, who shall post up and distribute the printed copies of the list in the same manner as nearly as may be as is provided for the posting up and distributing of the printed copies of the first and second parts of the voters' list.

Printing
third part.

(2) Where the third part is printed by the clerk of the peace under this section it shall not be necessary to include in the list any particulars except the name of the voter, his place of residence and condition or initials indicating such condition as "married", "unmarried", "widower", "bachelor", *et cetera*.

Particulars
to be in-
cluded in
list.

(3) The cost of printing shall be borne by the municipality.

Cost of
printing.

(4) Subject to subsection 5, the list to be revised under this Part shall be the first part of the last list finally revised by the judge of the county or district court and the third part of the said list prepared by the clerk of the municipality and filed with the clerk of the peace.

List to be
revised
under this
Part.

(5) Where an alphabetical list has been prepared by the clerk of the municipality and printed, distributed and deposited with the clerk of the peace as provided by Part I, but has not been revised by the judge, the board may in its discretion direct the use of the first and third parts of such list, or of either part, in place of the list mentioned in subsection 4. R.S.O. 1937, c. 7, s. 55.

Election
board may
direct use
of unrevised
list in
certain
cases.

59. As soon as conveniently may be after the issue of a writ for the holding of an election to fill a vacancy in the Assembly, or after the dissolution or expiry of the Assembly, the board shall fix the times and places in every municipality at which sittings shall be held by the revising officer for the

Board to fix
time and
place of
hearing
appeals.

purpose of hearing complaints as to the right of any person to be entered on the lists as entitled to vote at elections to the Assembly. R.S.O. 1937, c. 7, s. 56.

Appoint-
ment of
revising
officer.

60.—(1) The board shall appoint from among its number revising officers to hold sittings in each municipality or part of a municipality included in the electoral district in which an election is to be held, for the revision of the lists for the purposes of the election.

County
judge to
act if
practicable.

Rev. Stat.,
c. 76.

(2) Wherever practicable, the revising officer so appointed shall be the judge or one of the judges of the county or district court or the acting judge of the said court, but where the county or district forms part of a district formed under *The County Judges Act*, a judge of any county or district included therein may be appointed revising officer in a municipality in the county court district. R.S.O. 1937, c. 7, s. 57.

Where
judge not
available.

61. Where owing to the number of sittings to be held or from any other cause the board finds it impracticable for a judge to act as revising officer, the board may appoint one of its number, being a barrister of at least five years standing, or some other fit and proper person having the like qualification to act as revising officer. R.S.O. 1937, c. 7, s. 58.

Notice of
sittings of
revising
officer.

62. The board shall cause notice in the prescribed form to be given by publication in at least two newspapers having a general circulation in the county or district, and by posting up such notice in the office of the clerk of the municipality and in at least two conspicuous places in the municipality or portion of the municipality for which the sittings are to be held, stating the name of the revising officer appointed for each municipality, and the name and place of residence or office of the clerk of the revising officer, and the time and place at which the sittings will be held for each municipality and the last day upon which notice of complaint may be given under this Part, and calling upon all persons to examine the voters' list in order to ascertain that their names are correctly entered therein. R.S.O. 1937, c. 7, s. 59.

Clerk of
municipality
to be clerk
to revising
officer.

63. The clerk of the municipality shall act as clerk to the revising officer, but the board may appoint a clerk to any revising officer where the clerk of the municipality is unable to act. R.S.O. 1937, c. 7, s. 60.

Last day
for making
complaint.

64. The last day for making complaint to the revising officer shall be not less than two clear days and not more than five clear days before the day fixed for holding the sittings, as the board may direct, R.S.O. 1937, c. 7, s. 61.

65. Every person who, if he remains a resident in the municipality until the day fixed for holding the poll, and is otherwise qualified as provided by this Act, will be entitled to vote at the election, and whose name does not appear upon the first part of the last revised voters' list, as certified by the judge under Part I, or on the third part of the list as prepared by the clerk, shall be entitled to apply by notice of complaint in the prescribed form to the revising officer to have his name entered upon the list. R.S.O. 1937, c. 7, s. 62.

Right to
apply.

66.—(1) Any person whose name is entered upon the list, or who is entitled to be so entered, shall be entitled to give notice of complaint as to any person whose name has not been entered on the first or third parts of the list and who, if he remains a resident of the municipality or electoral district, will be qualified in other respects to vote at the election, or as to any person whose name has been entered on the list and who is not qualified or who has ceased to be qualified or is disqualified under *The Election Act* or otherwise by law prohibited from voting.

Who may
give notice
of com-
plaint.

Rev. Stat.,
c. 112.

(2) The notice of complaint shall be in duplicate and the clerk of the revising officer shall keep one copy of every notice of complaint posted up in his office and shall deliver the other copy to the revising officer. R.S.O. 1937, c. 7, s. 63.

Notice of
complaint
to be in
duplicate.

67. Subject to section 58, the clerk of the peace shall deliver to the board three copies of the first part of the list for the municipality as last revised by the judge in the manner provided by this Act, and three copies of the third part as received by him from the clerk of the municipality, or printed by the clerk of the peace, and such lists shall be subject to revision upon complaint as hereinbefore provided. R.S.O. 1937, c. 7, s. 64.

Delivery of
last list by
clerk.

68. The sittings of the revising officer shall be held in the same manner and shall be subject to the same provisions as nearly as may be as the sittings of the judge for the hearing of appeals or complaints under Part I and such provisions shall *mutatis mutandis* apply to the sittings of the revising officer. R.S.O. 1937, c. 7, s. 65.

Procedure
at sittings.

69.—(1) Where a person by whom or on whose behalf notice of complaint has not been given applies to the revising officer to have his name entered upon the list, and no objection to the want of notice is taken, the revising officer upon being satisfied on oath of such person or of someone having personal knowledge of the facts, that he is qualified to be so entered shall enter the name of such person upon the list.

Entering
name
without
complaint
in certain
cases.

Names not
to be
struck off
without
notice.

(2) The name of any person shall not be removed from the list by the revising officer unless the revising officer is satisfied on oath that due notice of complaint has been given to such person or that such person is dead or has removed from the municipality.

Evidence
required.

(3) The revising officer shall not remove any name from or add any name to the list or make any other changes therein except upon the evidence under oath of some person who has personal knowledge of the facts. R.S.O. 1937, c. 7, s. 66.

Certifying
and deliver-
ing lists at
close of
sittings.

70.—(1) At the close of the sittings, the revising officer shall certify in the prescribed form the lists as revised by him and the list of changes and corrections in the lists in triplicate, and one copy shall be delivered by the clerk of the revising officer to the clerk of the peace, and one copy shall be retained by the clerk of the revising officer and the third copy shall be delivered by the revising officer to the clerk of the board.

List as re-
vised to be
proper list.

(2) The lists as so revised and certified shall be the proper lists to be used in preparing the polling lists for the election. R.S.O. 1937, c. 7, s. 67.

Regulations.

71. The Lieutenant-Governor in Council may make regulations,

- (a) prescribing the forms, notices and other documents to be used for the purposes of this Part;
- (b) respecting the duties of the clerk of the board, the clerk of the peace and the clerks and other officers appointed or acting under this Part;
- (c) respecting the books and other records to be kept of the proceedings of the board and the revising officer;
- (d) fixing the fees to be payable to the board and the revising officer, clerk of the revising officer and clerk of the peace for services performed, and the witness fees and costs payable under this Part, and prescribing the manner in which they shall be borne and paid;
- (e) fixing the times within which the lists shall be completed and delivered to the clerk of the peace or the revising officers, and the time within which any duty imposed by this Part with reference to the revision of the lists by the revising officer and as to which no other provision is made, shall be performed;
- (f) for giving directions as to any matter in connection with the preparation or revision of lists under this Part which is not expressly provided for therein;

- (g) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Part. R.S.O. 1937, c. 7, s. 68 (1).

72. The fees and expenses of the board, the revising officers and clerks, the clerks of the municipalities and the clerks of the peace shall be payable by the municipality, and where lists are being revised for more than one municipality in a county or district, such fees and expenses shall be borne by the various municipalities whose lists are subject to revision in proportion to population and shall be payable to the persons entitled thereto by the treasurer of the municipality upon the presentation of accounts therefor certified by the chairman of the board. R.S.O. 1937, c. 7, s. 69.

Fees and expenses, how paid.

PART IV

PREPARATION AND REVISION OF VOTERS' LISTS FOR PROVINCIAL ELECTIONS IN CITIES AND TOWNS (POPULATION, 10,000 AND OVER) AND IN TOWNSHIPS BORDERING ON LARGE CITIES

73. In cities and towns having a population of 10,000 or more, and in townships bordering on a city having a population of 100,000 or more, the returning officer as soon as convenient after receiving a writ directed to him for the holding of an election, shall group together the polling subdivisions in such cities, towns and townships in the electoral district into as many combined registration and revising districts as circumstances require, subject to the approval of the election board, and shall prepare descriptions of the boundaries of such districts. R.S.O. 1937, c. 7, s. 70; 1942, c. 39, s. 5 (2).

Polling subdivisions to be grouped into districts for registration of voters and revision subject to approval of board.

74. The returning officer shall forthwith after receipt of the writ of election appoint in writing for each polling subdivision in the electoral district (Form 22) one or more persons to be enumerators of the voters in each polling subdivision to compile a list of voters as hereinafter provided, and shall require each of such persons before acting to take the oath (Form 23). R.S.O. 1937, c. 7, s. 71.

Returning officer to appoint enumerators.

75. The enumerators shall, forthwith after taking their oaths, prepare by a house to house canvass a complete list according to Form 24, under headings of names of streets where possible and in alphabetical order with the street address and occupation of all persons in the respective polling subdivision in the electoral district for which they have been appointed who are qualified to vote at the election, and the

Enumerators to prepare lists by house to house canvass.

enumerators in preparing the list shall have reference to and make use of Parts I and III of the last revised voters' list for the municipality. R.S.O. 1937, c. 7, s. 72.

Certification and disposition of list by enumerators.

76. The enumerators immediately after the completion of the lists and not later than four days from the date of their appointment, shall certify each polling subdivision list on oath (Form 25) and deliver the same to the returning officer, and shall prepare at least six copies of such lists duly certified as aforesaid, and shall forthwith post up one copy of each polling subdivision list in the office of the returning officer, and in a conspicuous place in the polling subdivision for which the list was prepared, and in the office of the clerk of the municipality, for public inspection, and shall distribute one copy to each of the representatives of the candidates. R.S.O. 1937, c. 7, s. 73.

Procedure where complaint made for wrongful entry on list.

77. Within four days after the posting up of the polling subdivision lists by the enumerators as provided in section 76, any person whose name has been entered on any of the polling subdivision lists in the electoral district may file with the proper clerk of the revising officer appointed for the polling subdivision, a complaint that there has been included in the polling subdivision list as compiled by the enumerators the name or names of persons who should not be entered therein, and such complaint shall be prepared according to Form 26 and shall set out the reason for complaining and shall be accompanied by an affidavit of the complainant (Form 27), and the same shall be filed with such clerk of the proper revising officer not later than the first day appointed for the sittings of the revising officer. R.S.O. 1937, c. 7, s. 74.

Revising officer's clerk to notify voter of complaint.

78. Upon such complaint and affidavit being received by the clerk of the revising officer, he shall forthwith, and not later than the first day of the sittings of the revising officer, transmit by registered mail addressed to the person objected to, at the address mentioned in the list of voters as compiled by the enumerator, a notice (Form 28) requiring the person objected to, to appear in person or by representative before the revising officer on a day to be named in such notice to answer the complaint made. R.S.O. 1937, c. 7, s. 75.

Board to fix time and place for registration and revision.

79. As soon as conveniently may be after the issue of a writ for the holding of an election to fill a vacancy in the Assembly, or after the dissolution or expiry of the Assembly, the board shall fix the times and places in every municipality at which sittings shall be held by the revising officers for the purpose of the registration of voters and revising the lists

compiled and certified by the enumerators. R.S.O. 1937, c. 7, s. 76.

80. The returning officer shall furnish to the revising officers the original lists for each polling subdivision as prepared and certified by the enumerators. R.S.O. 1937, c. 7, s. 77. List to be delivered to revising officers.

81.—(1) The board shall appoint from among its number revising officers to hold sittings in such cities, towns and townships in the electoral district in which an election is to be held for the registration of voters and the revision of the lists as herein provided. Who to be revising officer, appointment of.

(2) Wherever practicable, the revising officer so appointed shall be the judge or one of the judges of the county or district court or the acting judge of the said court; but where the county or district forms part of a district formed under *The County Judges Act* a judge of any county or district included therein may be appointed revising officer. Idem. Rev. Stat., c. 76.

(3) For the due performance of his duty, a revising officer appointed under this part shall have and possess all the powers of a judge sitting for the hearing of complaints under Part I. R.S.O. 1937, c. 7, s. 78. Powers of revising officer.

82. Where, owing to the number of sittings to be held, or from any other cause, the board finds it impracticable for a judge to act as revising officer, the board may appoint one of its own number, being a barrister of at least five years standing, or some other fit and proper person having the like qualification to act as revising officer. R.S.O. 1937, c. 7, s. 79. Where judge not available.

83. The returning officer shall report to the board the convenient places he has selected in which the revising officers shall sit, and such places shall be properly furnished, lighted and heated. R.S.O. 1937, c. 7, s. 80. Suitable places for sittings to be obtained.

84. The board shall cause to be printed a notice of the sittings of the revising officers in such form as may be prescribed by the board, and such notice shall at least five days before the sittings be posted in adequate numbers and in conspicuous places throughout the areas affected, and where possible, published in all newspapers having a general circulation in the electoral district, and before nine o'clock on the morning of the day of registration and revision an additional five copies shall be posted up outside of and near to the place of registration and revision. R.S.O. 1937, c. 7, s. 81. Notice of sittings to be given.

Appoint-
ment of
clerks to
revising
officer.

85. The board shall appoint one or more clerks to any revising officer as may be necessary, and such appointments shall be made as soon as conveniently may be after the issue of the writ for the election, and notice shall be published in all newspapers having a general circulation in the electoral district of such appointment, and the location of his office. R.S.O. 1937, c. 7, s. 82.

Oath by
revising
officer except
the judge.

86. Every revising officer shall, unless he is a judge, be sworn to the faithful and impartial performance of his duties. R.S.O. 1937, c. 7, s. 83.

Additional
revising
officers
may be
appointed.

87. If at any time the number of applications for registration and revision of the list, at any registration and revising office, is such that the revising officers cannot promptly dispose of them, the board may appoint additional revising officers, or may provide clerical assistance for the revising officers acting thereat. R.S.O. 1937, c. 7, s. 84.

Representa-
tives of
recognized
political
interests
may be
present.

88. The revising officers shall permit to be present in the place of registration and revision two representatives of each recognized and opposed political interests in the electoral district, but no such representative shall, except with the permission of the revising officer, have any right to take part or intervene in the proceedings. R.S.O. 1937, c. 7, s. 85.

Who may
apply to be
registered
or have
correction
made.

89. Any person resident in any polling subdivision included in the registration district, whose name has not been included or has been incorrectly included by the enumerator in the list of voters for such polling subdivision, may apply at the place of registration for the registration district to have his name included in the list or to cause the entry in the list relating to him to be corrected. R.S.O. 1937, c. 7, s. 86; 1942, c. 39, s. 6.

Application
to be entered
on list to be
signed.

90. Every person so applying shall sign an application (Form 29) in which all the information required by the form shall be sufficiently filled in, either by the applicant personally or by a revising officer at the applicant's request, and before entering the name of the person in the list of voters or before correcting the list, as the case may require, the revising officer shall satisfy himself that the applicant understands the effect of the statements in the application and that he is entitled to have his name included in the list or to have the list corrected pursuant to his request. R.S.O. 1937, c. 7, s. 87.

Interpreter
may be
engaged.

91. When the language of the applicant is not understood by the revising officer, an interpreter may be sworn and may act; but in the event of inability to secure an interpreter, the

application shall, for the time being, be refused. R.S.O. 1937, c. 7, s. 88.

92. If it appears to the revising officer that the applicant understands the effect of the statements in the application (Form 29) and that the applicant's name should be included in the list, or that the amendment thereof which he requests should be made, he shall certify accordingly by signing the application. R.S.O. 1937, c. 7, s. 89.

Revising officer to enter name when satisfied applicant is qualified.

93. If, in the opinion of the revising officer, the statements made by the applicant in his application do not show that the applicant is entitled to have his name included in the list, or to have the list amended as requested, he shall advise the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. R.S.O. 1937, c. 7, s. 90.

Procedure where application refused.

94. If any person who claims to be entitled to have his name included in the list of voters or to have the entry relating to him therein corrected is unable personally to attend the registration and revising sittings by reason of sickness, disability, or necessary, temporary, unavoidable and *bona fide* absence from the municipality in which the registration area is included, then a relative of such person by blood or marriage, or his employer may, if he has a sufficient knowledge of the facts, appear before the revising officer and complete the application (Form 29) to have such person's name included in the list of voters or to have the list corrected, as the case may be. R.S.O. 1937, c. 7, s. 91.

Absence through sickness, etc., relative or employer may appear.

95. If the relative by blood or marriage, or the employer so appearing, substantiates,

Evidence to be produced by relative or employer.

- (a) the cause for the non-appearance of the person immediately concerned to be as hereinbefore set forth;
- (b) the existence of a relationship by blood or marriage or the relationship of employer and employee; and
- (c) the facts relevant to the qualification, name, address or identity of the person immediately concerned so far as the facts are requisite to cause the name of the person to be included in the list, or to cause the list to be corrected, as the case may be,

the revising officer may act upon such application as if the person immediately concerned had appeared in person before him. R.S.O. 1937, c. 7, s. 92.

Objections
by persons
on list to
names
appearing
thereon.

96.—(1) Any person whose name appears in the list of voters for any polling subdivision in the electoral district or the registration district for which the revising officer has been appointed, may on the first day of the sittings only make oath before the revising officer giving particulars,

- (a) of the list upon which his name appears;
- (b) stating that he is qualified to vote in the electoral or registration district; and
- (c) alleging the death, disqualification, or real residence and appearance on another list, of any person on the list for any of the polling subdivisions in the registration district for which the revising officer has been appointed.

Notice to
person
objected to.

(2) The revising officer, upon such oath being made before him (Form 27), shall cause to be transmitted by registered mail addressed to the person objected to, at the address mentioned in the list of voters, if any, and also at such other address, if any, as may be mentioned in the oath aforesaid, a notice (Form 28) requiring the person objected to, to appear in person or by his representative before him or any revising officer who is on duty at such revising office, on a day to be named in the notice, to establish his qualification as a voter, and the revising officer shall transmit with each copy of the notice, a copy of the oath of the voter making the objection. R.S.O. 1937, c. 7, s. 93.

Additions
and correc-
tions to be
entered on
the proper
polling sub-
division list.

97. During the sittings, each revising officer shall from time to time enter in the proper polling subdivision list in his registration district as supplied by the returning officer and certified by the enumerator as provided in this Part, names, addresses and occupations of such qualified voters as are added by him to the list, or in respect of which any correction or alteration is made, and shall certify each amendment of the list so made in the proper polling book, and shall certify each amendment of the list so made by appending thereto his initials and a note of the date of the amendment. R.S.O. 1937, c. 7, s. 94.

Revising
officer a con-
servator of
the peace.

98. Every revising officer shall, while sitting as such, be a conservator of the peace and have and possess the same powers as a justice of the peace and he may appoint, if necessary, constables for the maintenance of order and for the arrest and detention of persons who are guilty of the personation of others, or of attempting to personate others, or who impede or improperly interrupt his proceedings or create a disturbance. R.S.O. 1937, c. 7, s. 95.

99. The board may at any time relieve any revising officer of his duties and appoint another to perform the same, and any revising officer so relieved shall forthwith upon receiving written notice from the board of the appointment of a substitute for him, deliver to the board or to such other person as the board may appoint, all lists, notices and other papers in his possession as revising officer. R.S.O. 1937, c. 7, s. 96.

Board
may replace
revising
officers.

100. At the sittings for revision, the revising officer shall have jurisdiction to dispose and shall dispose,

Jurisdiction
of revising
officer.

- (a) of applications made by persons to have their names included in the lists, or to have the lists corrected;
- (b) of applications by relatives or employers;
- (c) of objections on oath made before a revising officer under section 96 of which a revising officer has given notice as provided in such section;
- (d) of objections to the inclusion of any names in the list of voters of which at least two days notice has been given in writing sent by mail, registered and prepaid, addressed to the person whose name is objected to at the address given for such person in the list of voters; and
- (e) of complaints filed under section 77 with any clerk of any revising officer, notice of which has been given to the party objected to as provided in such section. R.S.O. 1937, c. 7, s. 97.

101. In the case of any objections made on oath before a revising officer under section 96, of which notice has been properly given by a revising officer under such section, the onus of establishing his right to have his name included in the list of voters shall be upon the person objected to, and if the person does not, during the sittings on the day for which notice of the hearing of the objection has been given, appear before the revising officer, personally or by representative, or, being present or represented, fails to satisfy the revising officer of his right to have his name retained on the list, the revising officer shall strike his name therefrom whether or not the voter by whom the objection was made has appeared before him. R.S.O. 1937, c. 7, s. 98.

Procedure
dealing with
objections to
name on list.

102. In the case of any objection or complaint to the inclusion of a name in the list of voters of which notice has been given by the objecting person under section 77, the onus of establishing the validity of such objection shall rest upon the objecting person, and shall be discharged either by proper evidence that the name of the person objected to should not

Procedure.
complaint
made under
section 77.

be included in the list of voters or by the production of a post office certificate of the registration of the package containing the notice of objection, and of the package itself having upon it a record by the post office indicating that it could not be delivered. R.S.O. 1937, c. 7, s. 99.

Name not
to be
struck off
without
notice.

103. The name of any person shall not be removed from the enumerator's list by the revising officer unless he is satisfied on oath that due notice of complaint has been given to the person, or evidence that the person could not be found and the registered notice could not be delivered. R.S.O. 1937, c. 7, s. 100.

Evidence
required.

104. The revising officer shall not remove any name from the enumerator's list or make any other changes therein except upon evidence under oath. R.S.O. 1937, c. 7, s. 101.

Revising
officer cor-
rects the
lists and
certifies
to same.

105.—(1) During the sittings for the revision of the list each revising officer shall correct, and forthwith after their conclusion shall certify the lists of each polling subdivision as finally revised by him, and shall thereupon as soon as possible transmit to the returning officer the lists as corrected by him.

Lists so
revised to be
lists for the
election.

(2) The lists as so revised and certified shall be the proper lists to be used in preparing the polling lists for the election. R.S.O. 1937, c. 7, s. 102.

Copies of
revised
lists to be
furnished
candidates.

106. The returning officer shall forthwith cause to be made a sufficient number of copies of the revised lists for each polling subdivision and shall distribute two copies to the representatives of the candidates. R.S.O. 1937, c. 7, s. 103.

Lists to be
printed and
certified.

107. The returning officer shall also forthwith cause the lists as finally revised to be printed, and shall have the printing thereof completed not later than the eighth day before polling day, and each printed copy of each list shall have appended thereto a printed certificate by the returning officer that such print accurately sets out the names, addresses and occupations of the persons referred to in the list as finally revised by the revising officer for the polling subdivision to which the printed list relates. R.S.O. 1937, c. 7, s. 104.

Printed
copies to be
furnished
candidates.

108. The returning officer shall furnish 10 printed copies of the list for each polling subdivision to the representatives of the candidates. R.S.O. 1937, c. 7, s. 105.

Printed
list the
official
list.

109. The printed lists for the polling subdivision as so certified by the returning officer shall be the official list for the polling subdivision to which it relates, but if any material difference

between its contents and the contents of the list as finally revised by the revising officer is discovered after the completion of the printing, the returning officer shall furnish a certificate of the error to the deputy returning officer and to the representative of each of the candidates, and the printed list shall for all purposes be taken to have been amended in accordance with the certificate. R.S.O. 1937, c. 7, s. 106.

110. Any copies of lists, or of statements of changes or additions in any list required by this Part to be distributed to the candidates, shall be distributed to the representatives of candidates who have been formally nominated as such at the pending election, if any. R.S.O. 1937, c. 7, s. 107. Distribution of lists to candidates.

111. The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) prescribing the forms, notices and other documents to be used for the purposes of this Part;
- (b) respecting the duties of the clerk of the board, the enumerators and all other clerks and officers appointed or acting under this Part;
- (c) respecting the books and other records to be kept of the proceedings of the board, the enumerators and the revising officer;
- (d) fixing the fees to be payable to the board, the enumerators and the revising officer and clerk for services performed, the witness fees and costs, if any, the costs of any premises used for the purpose of registration or revision, and the costs of printing the lists, and any other costs incurred in connection therewith and prescribing the manner in which and by whom they shall be borne and paid;
- (e) fixing the times in connection with the preparation of any list where no other provision in this Part has been made;
- (f) for giving directions as to any matter in connection with the preparation or revision of lists under this Part, which is not expressly provided for therein;
- (g) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Part. R.S.O. 1937, c. 7, s. 108 (1).

112. Notwithstanding anything in this Act or *The Election Act*, this Part shall extend and apply to the preparation and revision of voters' lists in all cities and towns having a population of 10,000 or more and in all townships bordering on a city Application of Part. Rev. Stat., c. 112.

having a population of 100,000 or more. R.S.O. 1937, c. 7, s. 109; 1942, c. 39, s. 7.

Who may
vote.

113. Only those persons who have registered with the registrars and revising officers and appear in the list for their respective polling subdivision, as compiled by the revising officers in accordance with this Part, shall be entitled to vote at the election for which the lists have been prepared. R.S.O. 1937, c. 7, s. 110.

Soldiers'
franchise
allowed.
Rev. Stat.,
c. 112.

114. Notwithstanding anything in this Part, paragraph 2 of section 18 of *The Election Act* shall apply. R.S.O. 1937, c. 7, s. 111.

Part III
need not be
printed by
municipality
under this
Part.

115. In all cities, towns and townships in which the provisions of this Part apply, it shall not be necessary for the municipality to print Part III of the voters' list as otherwise provided in this Act. R.S.O. 1937, c. 7, s. 112.

PART V

LISTS IN TERRITORY WITHOUT MUNICIPAL ORGANIZATION

When
lists to be
prepared.

116. Whenever a vacancy occurs in the Assembly or the Assembly is dissolved or expires, lists shall be prepared in each electoral district comprising territory without municipal organization, including territory in an Indian Reserve, of all persons who are entitled to be entered upon the lists and to vote at an election in the electoral district of which the territory forms a part. R.S.O. 1937, c. 7, s. 113.

Board to
determine
polling
places and
issue pro-
clamation.

117.—(1) As soon as conveniently may be after a vacancy occurs in the Assembly or the Assembly is dissolved or expires, the board shall determine the number and places in the territory where a poll is to be established and held, and shall cause a proclamation in such form as may be prescribed by the chief election officer to be posted up at every such place at which a poll will be held, calling upon all persons qualified to vote at the election to attend at such places and times as may be mentioned in the proclamation, in order that their names may be entered upon the lists by the enumerators who will attend for the purpose.

Proclama-
tion to be
posted up.

(2) The proclamation shall be so posted up in conspicuous places in such polling districts at least five days before the sittings of the enumerators.

Posting up
Part V.

(3) The board may also direct that a copy of this Part be posted up in the same manner.

(4) The board shall transmit a copy of the proclamation to the known candidates for the pending election, and if not known, to the member representing the electoral district, and to the defeated candidate at the last election. R.S.O. 1937, c. 7, s. 114.

Proclamation to be sent to candidates.

118.—(1) The board shall appoint a chief enumerator for the electoral district and the chief enumerator shall appoint one or more assistant enumerators to assist him in the preparation of the voters' lists.

Appointment of chief enumerator and assistant enumerators.

(2) The appointment shall be by writing in duplicate under the hand of the chairman of the board or the chief enumerator, as the case may be, and shall designate the area within the electoral district in which each assistant enumerator is to prepare the list.

Appointment to be in writing.

(3) One of such duplicates shall be furnished to the chief enumerator or the assistant enumerator, as the case may be, and the other shall be filed forthwith in the office of the clerk of the board and shall be open to inspection at all reasonable times.

Filing of appointments.

(4) A copy of every such appointment, certified by the chairman of the board or by the chief enumerator, as the case may be, shall be transmitted forthwith to the Clerk of the Crown in Chancery and shall be filed in his office. R.S.O. 1937, c. 7, s. 115.

Copy for Clerk of Crown in Chancery.

119. The board may dispense with the services of any chief enumerator or assistant enumerator at any time and may appoint some other person to the office and may fill any vacancy caused by death, removal or otherwise, or by the neglect of the chief enumerator to make an appointment, and may enlarge, diminish or alter the limits of the territory in which any assistant enumerator is to act as the board may think fit. R.S.O. 1937, c. 7, s. 116.

Changes among appointees.

120.—(1) Every chief enumerator and every assistant enumerator shall, before entering upon his duties, take the oath of office (Form 30) before a judge of the county or district court of the county or district or before a justice of the peace or one of the members of the board, and the oath shall forthwith be transmitted to the clerk of the board, and in the case of the chief enumerator shall be transmitted forthwith by the clerk of the board to the Clerk of the Crown in Chancery.

Oath of office.

(2) The chief enumerator shall have power to administer the oath of office to any assistant enumerator. R.S.O. 1937, c. 7, s. 117.

Oath of assistant enumerator.

Enumerators to attend for registration.

121.—(1) The chief enumerator, under the direction of the board, and his assistant enumerators shall attend at the time and place mentioned in the proclamation for the purpose of the registration of voters and the preparation of the lists.

Procedure for entering names on list.

(2) Sections 90, 91, 92, 93, 94 and 95 shall apply *mutatis mutandis* to the registration of voters by the enumerators. R.S.O. 1937, c. 7, s. 118.

Who may be entered on list.

122. Every person who,

- (a) is of the full age of 21 years or will be of the full age of 21 years before the day fixed for holding the poll at the election;
- (b) is a British subject;
- (c) is not disqualified under *The Election Act* or otherwise by law prohibited from voting;
- (d) is a resident of and domiciled in the electoral district;
- (e) is and has been continuously, from a date 12 months prior to the day fixed for holding the poll at the election, a resident of and domiciled in Ontario,

Rev. Stat., c. 112.

shall be entitled to be entered on the list prepared under this Part. R.S.O. 1937, c. 7, s. 119.

General supervision of enumeration.

123. Subject to the direction of the board the chief enumerator shall have the general supervision and direction of the assistant enumerators, and notwithstanding anything in this Act may do and perform any of the duties assigned to an assistant enumerator. R.S.O. 1937, c. 7, s. 120.

Subdivision of lists.

124. The list shall be in several parts, one part for each polling place, and the name of each voter shall be entered in that part, the polling place for which is most convenient for him. R.S.O. 1937, c. 7, s. 121.

Affidavit of assistant enumerator.

125. Every assistant enumerator shall, on completion of the lists, attach thereto an affidavit in the prescribed form, to be made before the judge or a magistrate, and shall forthwith deliver the list to the clerk of the board who shall post it up in his office. R.S.O. 1937, c. 7, s. 122.

Where irregularities not to void list.

126. The non-performance by the assistant enumerator of any of his duties under this Act within the times appointed shall not affect the validity of any list nor shall any list be void for any irregularity, if there has been a substantial compliance with the requirements of this Part. R.S.O. 1937, c. 7, s. 123.

127.—(1) The board shall appoint from among its number a revising officer to hold sittings for the revision of the lists for the purposes of the election. Appointment of revising officer.

(2) Wherever practicable, the revising officer so appointed shall be the judge or one of the judges of the district. Judge to act if practicable.

(3) The board may appoint one or more of its members to act in the place of the judge for the purpose of revision and hearing complaints, where owing to the extent of territory to be dealt with or for any other reason the board deems such appointment necessary or expedient. Where judge not available.

(4) For the due performance of his duty, a revising officer appointed under this Part shall have and possess all the powers of a judge sitting for the hearing of complaints under Part I. Powers of revising officer.

(5) The board shall fix the times and places at which sittings shall be held by the revising officers. Fixing sittings.

(6) The board shall cause to be printed a notice of the sittings of the revising officer in such form as may be prescribed by the chief election officer, and such notice shall at least five days before the sittings be posted in adequate numbers and in conspicuous places throughout the areas affected, and where possible, published in any newspaper. R.S.O. 1937, c. 7, s. 124. Notice of sittings of revising officer.

128. The Board may appoint a clerk to any revising officer appointed under this Part and the clerk shall perform, as far as possible, the duties assigned to a clerk of a revising officer appointed under Part IV. R.S.O. 1937, c. 7, s. 125. Clerk to revising officer.

129.—(1) The provisions of Part IV dealing with the right of persons to have their names added to the list or corrections made therein by the revising officer, and the procedure relating to complaints against any name entered thereon shall as far as possible apply to this Part, and such provisions shall also apply to the procedure before the revising officer, and he shall have the same jurisdiction and perform the same duties assigned to the revising officer appointed under Part IV, and the forms and notices and other procedure shall be the same as nearly as may be, and be taken with the same effect as provided in Part IV. Application of Part IV.

(2) If for any reason any of the provisions of this Part, or of Part IV which are applicable to this Part, cannot be complied with, then in all such cases the board shall deal with the same, subject to the approval of the chief election officer. R.S.O. 1937, c. 7, s. 126. Power of board in certain cases.

Fees of
enumerator
and judge.

130.—(1) The chief enumerator and each assistant enumerator for preparing, and the judge for revising the lists required by this Part, shall be entitled to receive the sum of \$5 per day for the time during which he was engaged therein, and all reasonable personal expenses and disbursements.

When
additional
sums
may be
authorized.

(2) Whenever it appears to the Lieutenant-Governor in Council that the amount provided in subsection 1 is not sufficient remuneration for the services required to be performed, he may authorize the payment of such additional sum for such services as he may consider just and reasonable.

How
payable.

(3) The fees, allowances and expenses payable under subsections 1 and 2, and the other expenses of preparing lists under this Part shall be certified by the chairman of the board and shall be audited and paid in the manner provided by *The Election Act* with respect to fees and expenses allowed under that Act. R.S.O. 1937, c. 7, s. 127.

Rev. Stat.,
c. 112.

Enumer-
ators, etc.,
not to be
candidates.

131. No chief enumerator or assistant enumerator and no person in whose office the list is deposited under this Part, shall be a candidate for election to the Assembly at any election at which the list is used. R.S.O. 1937, c. 7, s. 128.

Penalty
for neglect
of duty.

132. Every chief or assistant enumerator who wilfully neglects, omits or refuses to perform any of the duties hereinbefore required of him shall be guilty of an offence and on summary conviction shall be liable for each omission, neglect or refusal to a penalty of \$200. R.S.O. 1937, c. 7, ss. 129, 131.

Penalty
for mis-
conduct.

133. The wilful alteration of, omission from, incorrect entry in or falsification of any certified list or copy thereof, shall be an offence and every chief or assistant enumerator, clerk of the peace or other person who commits such offence or wilfully permits it to be committed, shall on summary conviction be liable to a penalty of not less than \$500 and not more than \$2,000 and in addition thereto may be imprisoned for a term of not more than three months. R.S.O. 1937, c. 7, ss. 130, 131.

Regulations.

134. The Lieutenant-Governor in Council may make regulations,

- (a) prescribing forms to be used in carrying out this Part;
- (b) fixing the fees and charges to be paid and allowed for any services rendered in connection with the preparation and revision of the lists;
- (c) providing for any matter in connection with the preparation of the lists not expressly provided for in

this Part, and respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Part. R.S.O. 1937, c. 7, s. 132.

SCHEDULE

FORM 1

(Section 7 (1))

FORM OF VOTERS' LIST

Voters' List, 19..... Municipality of.....

SCHEDULE OF POST OFFICES

1. North Augusta.
2. Maitland.
3. Wright's Corners.
4. Prescott.

POLLING SUBDIVISION No. 1, COMPRISING, ETC.:—(Giving the Limits)

PART I.—Persons entitled to vote at BOTH Municipal Elections
and Elections to the Legislative Assembly

| NAME | CONDI-
TION | LOT | CON. OR
STREET | | POST
OFFICE
ADDRESS | JUR-
ORS'
COL. |
|----------------------|----------------|---------------------|-------------------|-----------------|---------------------------|----------------------|
| Anderson, Henry..... | M | N W $\frac{1}{2}$ 6 | 3 | Owner | 1 | |
| Andrews, John..... | B | W 14 acr. 8 | 1 | F.S. | 4 | |
| Archer, Mary..... | MW | 2 | 9 | M.F.N.C. | 4 | |
| Burton, Samuel..... | W'er | E $\frac{1}{2}$ 17 | 4 | See Subdiv. No. | 2 | |
| Clark, Edith..... | W | W $\frac{1}{2}$ 17 | 4 | Tenant | 5 | |

PART II.—Persons entitled to vote at Municipal Elections ONLY

| NAME | LOT | CON. OR
STREET | | POST OFFICE
ADDRESS |
|--------------------|--------------------|-------------------|----------|------------------------|
| Archer, Henry..... | 4 | 3 | M.F.N.C. | 2 |
| Burk, Edmund..... | W $\frac{1}{2}$ 17 | 4 | Tenant | 3 |
| Jones, David..... | E $\frac{1}{2}$ 17 | 4 | Owner | 4 |

PART III.—Persons entitled to vote at Elections to the Legislative
Assembly ONLY

| NAME | CON-
DITION | LOT | CON. OR
STREET | POST OFFICE
ADDRESS |
|-----------------------|----------------|--------------------|-------------------|------------------------|
| Acroyd, James..... | M | N $\frac{1}{2}$ 3 | 4 | 3 |
| Joseph, Amos..... | B | 3 | 7 | 3 |
| Jones, Elizabeth..... | S | NW $\frac{1}{2}$ 6 | 8 | 3 |
| Martin, Clara..... | MW | W $\frac{1}{2}$ 9 | 5 | 4 |
| Morris, Edward..... | W'er | E $\frac{1}{2}$ 17 | 4 | 4 |
| Smith, Grace..... | W | W $\frac{1}{2}$ 6 | 9 | 4 |

POLLING SUBDIVISION No. 2, COMPRISING, ETC.:—(Giving the Limits)

(NOTE: In the Column headed "Condition" insert the initial letter or letters
"M" (Married); "M.W." (Married Woman); "S" (Spinster);
"W" (Widow); "W'er" (Widower); "B" (Bachelor), according to
the circumstances.)

FORM 2

(Section 10 (1))

CERTIFICATE TO BE ENDORSED ON PART I OF THE VOTERS' LIST

I, A. B., Clerk of the Municipality of....., in the County of....., certify that the within (or above) list being the first part of the voters' list constitutes a correct list for the year 19....., of all persons appearing by the assessment roll to be entitled to vote at both elections for members of the Legislative Assembly and municipal elections in the said Municipality, and I hereby call upon all voters to take immediate proceedings to have any omissions or errors corrected according to law.

Dated this.....day of.....
A. B.,
Clerk of.....

R.S.O. 1937, c. 7, Sched. A, Form 2; 1950, c. 87, s. 14 (1).

FORM 3

(Section 10 (1))

CERTIFICATE TO BE ENDORSED ON PART II OF THE VOTERS' LIST

I, A. B., Clerk of the Municipality of....., in the County of....., certify that the within (or above) list being the second part of the voters' list constitutes a correct list for the year 19....., of all persons appearing by the assessment roll to be entitled to vote at municipal elections only in the said Municipality and I hereby call upon all voters to take immediate proceedings to have any omissions or errors corrected according to law.

Dated this.....day of.....
A. B.,
Clerk of.....

R.S.O. 1937, c. 7, Sched. A, Form 3; 1950, c. 87, s. 14 (2).

FORM 4

(Section 12)

CLERK'S NOTICE OF FIRST POSTING OF VOTERS' LIST

Voters' Lists, 19....., Municipality of....., County of.....

Notice is hereby given that I have complied with section 9 of *The Voters' Lists Act* and that I have posted up at my office at....., on the.....day of....., 19....., the list of all persons entitled to vote in the said Municipality at municipal elections and that such list remains there for inspection.

And I hereby call upon all voters to take immediate proceedings to have any errors or omissions corrected according to law, the last day for appeal being the.....day of....., 19.....

Dated this.....day of.....
A. B.,
Clerk of.....

R.S.O. 1937, c. 7, Sched. A, Form 4.

FORM 5

(Section 13 (5))

AFFIDAVIT IN SUPPORT OF APPLICATION FOR NAME TO BE
PLACED ON REVISED LIST

I,, of the Township of....., in the County of....., make oath and say:—

1. That I am (or that.....is to the best of my personal knowledge) a British subject of the full age of 21 years, and not a citizen or a subject of any foreign country.

2. That I have (or that the said.....has) resided in Canada for the nine months next preceding the.....day of....., 19..... (Fill in the day fixed for beginning to make the assessment roll upon which the voters' list is based) and that I was (or the said.....was) on the said day a resident of and domiciled in this municipality.

or

2. That on the.....day of....., 19..... (Fill in the last day for making complaint to the county judge), I will have (or the said.....will have) resided in Canada for the twelve months next preceding that day and that I am (or the said.....is) a resident of and domiciled in this municipality.

3. That I am (or the said.....is) entitled to be entered on the voters' list for the township of.....

4. That I am not (or that the said.....is not) disqualified under *The Election Act* or otherwise by law prohibited from voting at elections for the Legislative Assembly.

Sworn before me at the.....
of.....in the County of.....
this.....day of....., 19.....

(Signature Justice of the Peace or Commissioner, etc.)

NOTE.—This affidavit may be made before a justice of the peace, a commissioner for taking affidavits or a notary public.

R.S.O. 1937, c. 7, Sched. A, Form 5.

FORM 6

(Sections 14 (1), 16 (1))

THE VOTERS' LISTS ACT

NOTICE OF COMPLAINT OR APPEAL

Polling Subdivision No..... Ward No..... Municipality of.....

(This notice must not apply to the lists for more than one polling subdivision)

To....., Clerk of the..... for the
.....of.....

I (Insert full name—No initials), a person entered or entitled to be entered on the voters' list in the above-mentioned municipality in the electoral district of....., complain that the persons whose names are set forth in List No. 1, are entitled to be on the voters' list for the above-mentioned polling subdivision, but are omitted from

the said list; that the persons whose names are set forth in List No. 2 are incorrectly described in the said list; that the persons whose names are set forth in List No. 3 ought not to have been entered on the voters' list for the above-mentioned polling subdivision; and take notice that I intend to apply to the Revising Officer in respect thereof pursuant to the statute in that behalf.

(Signed).....

Dated this.....day of....., 19.....

LIST No. 1

(Showing voters omitted from or not entered on the Voters' List)

| NAMES OF PERSONS | ADDRESS | CONDITION
(Here write letters: "M." meaning Married; "B." meaning Bachelor; "W'er" meaning Widower; "M.W." meaning Married Woman; "S." meaning Spinster; "W." meaning Widow; "S.F." meaning Soldier's Franchise.) |
|--|---------|--|
| <i>Insert full name and do not use initials.</i> | | |

LIST No. 2

(Showing persons whose names are wrongly stated in Voters' List)

| NAMES OF PERSONS | ADDRESS AS STATED
IN LIST | The Errors in Statement upon Voters' List |
|--|------------------------------|---|
| <i>Insert name as entered on list.</i> | | |

LIST No. 3

(Showing persons whose names ought not to be on Voters' List)

| NAMES OF PERSONS | ADDRESS AS STATED
IN LIST | Grounds on Which Such Persons' Names Ought Not to be on the Voters' List |
|--|------------------------------|--|
| <i>Insert name as entered on list.</i> | | |

THE VOTERS' LISTS ACT

VOTER'S NOTICE OF COMPLAINT

(For use by individual complainants)

Electoral District of.....
 Complaint as to Voters' List for Polling Subdivision No.....
 in the Municipality of.....

(Here insert name of municipality)

I,, a person entered or
(Full name of complainant)
 entitled to be entered on a voters' list in the above-mentioned municipality
 and electoral district, hereby complain that my name has been omitted
 from the list for the above polling subdivision, and appeal to have it
 entered thereon.

I hereby state and declare that

- (1) I am a British subject by birth.
*(If naturalized, cross out "birth", write in "naturalization" and
 give date of your certificate. Naturalized citizens must bring their
 certificates of naturalization with them when their appeals are to
 be heard.)*
- (2) My occupation is.....
*(In case of women, give occupation and also state whether married,
 widowed or single.)*
- (3) I have resided in Canada since.....
- (4) I have been living at.....
(Give present street address, or lot and concession number.)
 since.....
*(If you have moved within last five months, give each address at
 which you have lived in that period and date of moving from each.)*

-

 (5) I am over 21 years of age.

And take Notice that I intend to apply to the judge in respect thereof,
 pursuant to the statute in that behalf.

Dated this.....day of....., 19.....

(Complainant sign here)

R.S.O. 1937, c. 7, Sched. A, Form 6.

FORM 7

(Section 16 (3))

CLERK'S REPORT IN CASE OF APPEALS AND COMPLAINTS TO THE JUDGE

To His Honour the Judge of the County Court of the County of.....

The Clerk of the Municipality of.....reports that the
 several persons mentioned in column 1 of the subjoined schedule, and
 no others, have given to him written notice complaining of errors or
 omissions in the voters' list for the said Municipality for 19....., on the
 grounds mentioned in column 2 of the said schedule, and that such notices
 were received respectively at the dates set down in column 3 of the said
 schedule.

A. B.,
 Clerk of.....

Schedule

| 1 | 2 | 3 |
|---------------------|--------------------------------------|--|
| NAME OF COMPLAINANT | ERRORS OR OMISSIONS
COMPLAINED OF | DATE WHEN NOTICE OF COM-
PLAINT RECEIVED BY CLERK |
| | | |

R.S.O. 1937, c. 7, Sched. A, Form 7.

FORM 8

*(Section 16 (3))*JUDGE'S ORDER APPOINTING COURT FOR HEARING COMPLAINTS AND
APPEALS

To....., Clerk of the Municipality of the.....

I appoint the..... of....., 19....., at the
hour of..... at..... in the said county, for holding a
court to hear and determine the several complaints of errors and omissions
in the first and second parts of the said voters' list for the Municipality
of..... for 19.....

I direct that the Assessor for the Municipality shall attend the sittings
of the said court, and that the assessment roll and the minutes of the Court
of Revision for the Municipality for 19..... be produced thereat.

Dated..... day of....., 19.....

Judge C. C.

R.S.O. 1937, c. 7, Sched. A, Form 8.

FORM 9

*(Section 16 (3))*NOTICE TO BE POSTED BY CLERK IN HIS OFFICE WITH LIST OF
COMPLAINTS

Notice is hereby given that a court will be held, pursuant to *The Voters'
Lists Act*, at....., on the.....
..... day of....., 19....., at..... o'clock, for
hearing all complaints made against the first and second parts of the
voters' list for the Municipality of..... for 19.....,
particulars of which complaints are shown in the subjoined schedule.

Dated, etc.

A. B.,
Clerk of.....

Schedule

| NAME OF PARTY COMPLAINING | NAME OF PERSON IN RESPECT TO WHOM APPEAL WAS MADE | GROUNDS OF COMPLAINT ALLEGED |
|---------------------------|---|------------------------------|
| | | |

R.S.O. 1937, c. 7, Sched. A, Form 9.

FORM 10

(Section 16 (3))

CLERK'S NOTICE TO PARTY COMPLAINING

The Voters' Lists Act

You are hereby notified that a Court of Revision of the first and second parts of the voters' list, 19....., for the Municipality of..... will be held by the Judge of the County Court of the County of....., at....., on the..... day of..... 19....., at..... o'clock, at which court all complaints will be heard and determined. A list of complaints is posted up in..... and you are hereby required to appear at the court; and take notice, that the Judge may proceed to hear and determine the complaints, whether the parties complaining appear or not.

By order of His Honour the Judge of the County Court of the County of.....

Dated..... day of....., 19.....

To.....

} A person complaining of error in the voters' list.

A. B.,

*Clerk of the Municipality....., and
..... of the Court.*

R.S.O. 1937, c. 7, Sched. A, Form 10.

FORM 11

(Section 16 (3))

CLERK'S NOTICE TO PARTY COMPLAINED AGAINST

The Voters' Lists Act

You are hereby notified that a Court of Revision of the first and second parts of the voters' list, 19....., for the Municipality of.....

will be held by the Judge of the County Court of the County of.....
, at
, on the..... day of....., 19....., at.....
 o'clock, and you are required to appear at the court, for that.....
 has complained that your name..... is wrongly omitted (*or*
inserted as the case may be) in the said voters' list because (*state matter*
of complaint concisely). A list of all complaints lodged is posted up in
; and take notice, that the Judge may proceed to
 hear and determine the said complaint, whether you appear or not.

By order of His Honour the Judge of the County Court of the County
 of.....

To.....

Entered on voters' list.

A. B.,

Clerk of the said Municipality, and.....
 of the Court.

R.S.O. 1937, c. 7, Sched. A, Form 11.

FORM 12

(Section 17 (1))

SEAL

SUBPOENA

ONTARIO:

County of.....

To WIT:

{ GEORGE THE SIXTH, by the Grace of
 God, of Great Britain, Ireland and the
 British Dominions beyond the Seas,
 King, Defender of the Faith.

To..... Greeting:

We command you, that, all excuses being laid aside, you be and appear
 in your proper person before our Judge of our County Court of the County
 of....., at....., on the..... day of.....
 19....., at..... o'clock in the..... noon, at a court appointed,
 and there and then to be held, for hearing complaints of errors in the
 voters' list for 19....., of the Municipality of the..... of
 in the County of....., and for revision of the said voters' list,
 then and there to testify to all and singular those things which you know
 in a certain matter (*or matters*) of complaint made and now depending
 before the said Judge, under *The Voters' Lists Act*, where one.....
 is complainant, and which complaint is to be tried at the said court. (*And*
if the witness is required to produce documents) that you bring with you and
 produce at the said time and place (*Set out the documents to be produced*).
 Herein fail not.

Witness, His Honour....., Judge of our said Court at.....
 the..... day of....., in the year of our Lord 19.....

A. B.,
 Clerk.

R.S.O. 1937, c. 7, Sched. A, Form 12.

FORM 13

(Section 20 (1))

REPORT OF CLERK WHEN APPLYING FOR CERTIFICATE UNDER
SECTION 20

To the Clerk of the Peace of the County of

I,, Clerk of the Municipality of, in the
County of, do hereby certify as follows:

That I did, on the day of, 19....., post up,
and for a period of days next thereafter did keep posted up in a
conspicuous place in my office at, a correct printed copy of
the first and second part of the voters' list for the Municipality of
for 19....., made in pursuance of *The Voters'*
Lists Act, with the certificate required by section 10 of the said Act endorsed
thereon.

That I did also deliver or transmit by post, the required number of
similar printed copies of the list, with my certificate endorsed, to each of
the persons entitled to the same under section 9 of the said Act.

That I did on the day of, 19....., cause to be
inserted in the newspaper called the ".....", published in
the notice required by section 12 of the said Act.

That no person gave me nor did I receive, within 14 days after I had
posted up the list in my office, any written notice of complaint or intention
to apply to the Judge in respect to the list.

And to the best of my knowledge and belief, I have complied with all
the requirements of the said Act, so as to entitle me to apply for certified
copies under section 20, and I now apply to you to certify the requisite
number of the copies of the list received by you as being the revised list
of voters for the municipality of the said
for 19.....

Witness my hand this day of, 19.....

Clerk of the Municipality of

.....P.O.

R.S.O. 1937, c. 7, Sched. A, Form 13; 1950, c. 87, s. 14 (3).

FORM 14

(Section 20 (1))

CERTIFICATE WHERE NO COMPLAINTS

A. B., Clerk of the Municipality of the having
certified under his hand that no complaints respecting the first or second
parts of the list of voters for the said Municipality, for the year 19.....,
had been received by him within 14 days after the first posting up of the
same; and on application of the Clerk.

I,, Clerk of the Peace of the
County of in pursuance of the provisions of *The*
Voters' Lists Act, certify that the first and second parts of the annexed
printed list of voters, being one of the copies received by me from the clerk

under section 9 of the said Act, is the last revised list of persons entitled to vote at elections to the Assembly as well as at municipal elections, and that the second part of the said annexed list is the last revised list of persons entitled to vote at municipal elections only in the said municipality for the year 19.....

Given under my hand at.....
this.....day of....., 19.....

Clerk of the Peace.

R.S.O. 1937, c. 7, Sched. A, Form 14; 1950, c. 87, s. 14 (4).

FORM 15

(Section 21 (1))

CERTIFICATE OF JUDGE WHEN COMPLAINTS HAVE BEEN MADE

I,, Judge of the County Court of the County of.....
pursuant to section 21 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a correct copy of the statement of changes made by me in the first and second parts of the list of voters, for the year 19....., received by me from the Clerk of the Municipality of theof....., pursuant to the provisions of the said Act.

Dated.....day of....., 19.....

Judge.

R.S.O. 1937, c. 7, Sched. A, Form 15.

FORM 16

(Section 21 (3))

CERTIFICATE OF CLERK OF THE PEACE WHEN
COMPLAINTS HAVE BEEN MADE

I,, Clerk of the Peace of the County of.....
pursuant to section 21 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a correct copy of the statement of changes made by His Honour, Judge....., Judge of the County Court of the County of....., in the first and second parts of the list of voters for the year 19....., as certified by the said Judge.

Dated this.....day of....., 19.....

Clerk of the Peace.

R.S.O. 1937, c. 7, Sched. A, Form 16.

FORM 17

(Section 21 (4))

CERTIFICATE OF JUDGE WHEN COMPLAINTS HAVE BEEN MADE

I,, Judge of the County Court of the County of.....
pursuant to subsection 4 of section 21 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a correct copy of the first

and second parts of the list of voters for the year 19....., received by me from the clerk of the municipality of the.....of....., according to my revision and correction thereof, pursuant to the provisions of the said Act.

Dated.....day of....., 19.....

Judge.

R.S.O. 1937, c. 7, Sched. A, Form 17.

FORM 18

(Section 35 (1))

ORDER FOR PAYMENT OF COSTS

The Voters' Lists Act

In the matter of the voters' list for the Municipality of....., 19....., on the complaint or appeal of *A. B.*, complaining of the name of *C. D.* being wrongly inserted in the said list (or, as the case may be, stating in brief the nature of the complaint).

On the proceedings taken before me I find and adjudge that the name of the said *C. D.* was rightly inserted in the said list (or was wrongly inserted in the said list), and order that the said *A. B.* do pay the said *C. D.* his costs occasioned by the said complaint (or and order that the said *C. D.* shall pay the said *A. B.* his costs incident to the said complaint) (or and order that *E. F.*, the Assessor of the said Municipality, do pay the said *A. B.* his costs incident to the said complaint) (or, as the case may be, stating it in brief), which I fix at the sum of \$.....

Dated.....day of....., 19.....

Judge.

R.S.O. 1937, c. 7, Sched. A, Form 18.

FORM 19

(Section 38)

WRIT OF EXECUTION

In the.....Division Court in the County of.....
Whereas on the.....day of....., His Honour,....., Judge of the County Court of the County of..... made his order that *C. D.* should pay to *A. B.*.....dollars as and for his costs sustained by him on the trial of a complaint against the voters' lists for the Municipality of..... in the said County, for 19....., (or as the case may be) made and prosecuted under the provisions of *The Voters' Lists Act*, which said costs have been fixed and allowed at the said sum. You are hereby required to levy of the goods and chattels of the said *C. D.*, in the said County (not exempt from execution) the said money and your lawful fees, so that you may have the same within 30 days from the date hereof and pay the same over to the Clerk of this Court for the said *A. B.*

Given under the seal of the Court, this.....day of....., 19.....

X. Y.,
Clerk.

To V. W.,
Bailiff of the said Court.

R.S.O. 1937, c. 7, Sched. A, Form 19.

FORM 20

(Section 43 (1))

APPLICATION TO JUDGE AGAINST DELINQUENT CLERK

Pursuant to section 43 of *The Voters' Lists Act*, I, A. B., Clerk of the Peace of the County of....., (or a person entitled to be entered on the voters' list for the Municipality of....., for 19.....), hereby inform His Honour the Judge of the County Court of the said County, that C. D., Clerk of the Municipality of....., in the said County, has failed to perform the duties required of him as such Clerk by the said Act, in this, that he has not made out the list of voters for 19....., for the said Municipality, within 30 days after the return of the assessment roll thereof (or has not delivered or transmitted printed copies of the voters' list for the said Municipality, for 19....., to..... and..... and or to any of them (or, as the case may be, stating in brief the duty not performed), according to the requirements of the Act; and I apply to you to enforce the performance of the duties aforesaid.

Dated at....., this.....day of....., 19.....

A. B.,
Clerk of the Peace.

R.S.O. 1937, c. 7, Sched. A, Form 20; 1950, c. 87, s. 14 (5).

FORM 21

(Section 43 (3))

SUMMONS

The Voters' Lists Act

In the matter of the voters' list for the Municipality of....., in the County of....., for 19.....

Whereas it appears by the application of A. B., the Clerk of the Peace of the said County (or a person entitled to be entered on the said list) made to me, in pursuance of the said Act, that you have failed to perform certain duties required of you by the said Act, in this, that you have not made out the list of voters for 19....., for the said Municipality, within 30 days after the return of the assessment roll thereof (or as the case may be, following the application); and whereas the said A. B. has applied to me to enforce the performance of the duties aforesaid;

You are hereby required to appear before me at..... in.....day of....., 19....., at the hour of....., and produce before me the assessment roll for 19....., for the said Municipality, and any documents in your custody, power or control, relating to the assessment roll, or to the list aforesaid; and submit yourself for examination on oath.

Dated this.....day of....., 19.....

To C. D.,
Clerk of the Municipality of.....

Judge.

R.S.O. 1937, c. 7, Sched. A, Form 21; 1950, c. 87, s. 14 (6).

FORM 22

(Section 74)

APPOINTMENT OF ENUMERATOR

To (*insert name of enumerator*).
 Whose address is (*insert address*).
 and whose occupation is (*insert occupation*).

Know you that in pursuance of the authority given by section 74 of *The Voters' Lists Act*, I, the undersigned, in my capacity as Returning Officer for the Electoral District of.....
 do hereby appoint you to be one of the enumerators for Polling Subdivision No..... of the said Electoral District, to act as such enumerator in accordance with the provisions of Part IV of *The Voters' Lists Act* and to perform and have all the duties and powers imposed upon or exercisable by an enumerator under the said Act.
 Given under my hand this.....day of.....

.....
Returning Officer.

R.S.O. 1937, c. 7, Sched. A, Form 22.

FORM 23

(Section 74)

OATH OF ENUMERATOR

I, the undersigned (*insert name of enumerator*) appointed one of the enumerators for Polling Subdivision No..... of the Electoral District of.....do solemnly swear (*or affirm*) that I will act faithfully in my said capacity of enumerator, without partiality, fear, favour or affection, and in every respect according to law. So help me God.

.....
Enumerator.

R.S.O. 1937, c. 7, Sched. A, Form 23.

FORM 24

(Section 75)

POLLING SUBDIVISION BOOK

Electoral District.....

Polling Subdivision No.....

Name of Street.....

| No. | Name
(<i>family or
surname first</i>) | Occupation
or
addition | Residence
Street and
No. | Remarks |
|-----|--|------------------------------|--------------------------------|---------|
| | | | | |

Names to follow in alphabetical order.

R.S.O. 1937, c. 7, Sched. A, Form 24.

FORM 25

(Section 76)

ENUMERATOR'S CERTIFICATE OF POLLING SUBDIVISION BOOK

Electoral District.....

Polling Subdivision No.....

I (*insert name of enumerator*) of the.....of.....
 duly appointed an enumerator for Polling Subdivision No.....for
 the Electoral District of.....
 make oath and say:

This Polling Subdivision Book for Polling Subdivision No....., of the
 Electoral District of....., contains a true
 and correct list of the names, addresses and occupations of persons
 appearing as qualified to vote for the pending Provincial election, as
 compiled by me under the provisions of Part IV of *The Voters' Lists
 Act*.

Sworn before me
 at the City of.....
 in the County or District of.....
 this.....day of.....
Signature of enumerator.

.....
A Commissioner for taking affidavits.

R.S.O. 1937, c. 7, Sched. A, Form 25.

FORM 26

(Section 77)

LIST OF COMPLAINTS OF PERSONS WRONGFULLY REGISTERED

Registrations Complained Against

Electoral District.....

Polling Subdivision No.....

| Name
(<i>family or
surname first</i>) | Occupation
or
addition | Residence
Street and
No. | Reasons
for
Complaint |
|--|------------------------------|--------------------------------|-----------------------------|
|--|------------------------------|--------------------------------|-----------------------------|

And on the last page insert

Dated the.....day of....., 19.....

.....
Signature of Complainant.

R.S.O. 1937, c. 7, Sched. A, Form 26.

FORM 27

(Sections 77; 96 (2))

AFFIDAVIT AS TO DISQUALIFICATION OF PERSONS REGISTERED

Electoral District.....

Polling Subdivision No.....

I (insert name of complainant) of the.....of.....
make oath and say:

1. I have been entered as a voter by one of the enumerators in Polling Subdivision No.....for the Electoral District of....., and my name appears on the list of voters prepared by the said enumerator as entitled to vote at the pending election.

2. That there have been included in the list of voters prepared by the enumerator for Polling Subdivision No.....in the Electoral District of....., the persons whose names are set out in the attached list of complaints.

3. That I have good reason to believe and do verily believe that the said names should not appear upon the said list of voters for Polling Subdivision No.....in this Electoral District upon grounds which I will produce before the Revising Officer.

Sworn before me at the

.....of.....

in the County or District of.....

this.....day of.....

Signature of Complainant.

.....
A Commissioner for taking affidavits.

R.S.O. 1937, c. 7, Sched. A, Form 27.

FORM 28

(Sections 78; 96 (2))

NOTICE TO VOTER OBJECTED TO

Electoral District.....

Polling Subdivision No.....

To (set out name, address and occupation of voter as in list compiled by the enumerator)

Take notice that a complaint has been filed with me this day alleging that your name entered upon the list of voters by the enumerator of Polling Subdivision No.....in the Electoral District of..... has been wrongly entered thereon, for the following reason (set out grounds of complaint).

If you desire to appear before the Revising Officer to substantiate your right to have your name remain on such list of voters, you must appear before the Revising Officer appointed to revise the list at his sitting held at (insert the date and hour and place of one of the days appointed for the sittings).

If you or your representative do not appear before the Revising Officer and establish before him your right to have your name remain on the said list and answer such complaint, the Revising Officer will proceed to hear under oath the evidence as to the complaint, and if satisfied that your name should not remain on such list, he shall strike the same therefrom.

This notice is given pursuant to section 78 of *The Voters' Lists Act*.

Dated at....., this.....day of....., 19.....

.....
Clerk to Revising Officer.

R.S.O. 1937, c. 7, Sched. A, Form 28.

FORM 29

(Sections 90; 92; 94)

APPLICATION FOR REGISTRATION

Electoral District of.....

This application relates to

Surname.....
First name.....
Occupation.....
Address and residence.....

Statement of Facts

1. The above-named was resident in this Electoral District at (*set out his address*) at the date of the issue of the writ of election.
2. The said person is a British subject of the full age of 21 years.
3. The said person has been resident in Canada during the last 12 months next preceding the day of polling.
4. The said person is not disqualified as a voter for any reason.
5. The said person is accordingly entitled to vote at the pending election of a member to serve in the Legislative Assembly, for this Electoral District, and is entitled to be entered on the Voters' List as a qualified voter.

Declaration and Request of Applicant in Person

I declare that the above statement of facts is correct, and request that my name be entered in the list of voters for Polling Subdivision No..... in this Electoral District.

Dated this.....day of....., 19.....

.....
Signature of Applicant.

Alternative Declaration and Request of Relative or Employer

I declare that I am the (*insert "relative" or "employer"*) of the person above described, that I believe the above statement of facts to be correct, and that the person above described is unable to attend in person for the purpose of making this application by reason of sickness or disability, or by reason of necessary, temporary, unavoidable and *bona fide* absence from the municipality.

I request that the name of the person above described be entered in the list of voters for Polling Subdivision No.....in this Electoral District.

Dated this.....day of....., 19.....

.....
Signature of Employer or Relative.

R.S.O. 1937, c. 7, Sched. A, Form 29.

FORM 30

(Section 120 (1))

OATH OF ENUMERATOR PREPARING VOTERS' LISTS IN UNORGANIZED
TERRITORY

I, of the..... of....., in the District of..... and Province of....., the Enumerator whose duty it is under *The Voters' Lists Act* to prepare the voters' lists in and for the Electoral District (or portion of the electoral district, *describing such portion*) of..... in the Province of..... do hereby solemnly swear that I will well and faithfully discharge the duties assigned to me by the said Act without favour or partiality; and that I will in all respects, to the best of my ability, conform to the said Act and to the law. So help me God.

Sworn before me, at the..... of..... in the..... of....., and Province of....., this..... day of....., 19.....

.....
(*District or County Judge, or as the case may be.*)

R.S.O. 1937, c. 7, Sched. A, Form 30.

CHAPTER 415

The Wages Act

1. In this Act, "wages" means wages or salary whether the employment in respect of which the same is payable is by time or by the job or piece or otherwise. R.S.O. 1937, c. 196, s. 1.

Interpretation.

2. Where an assignment of any real or personal property is made for the general benefit of creditors, the assignee shall pay, in priority to the claims of the ordinary or general creditors of the assignor, the wages of all persons in the employment of the assignor at the time of the making of the assignment or within one month before the making thereof, not exceeding three months wages, and such persons shall rank as ordinary or general creditors for the residue, if any, of their claims. 1937, c. 196, s. 2.

Priority of wages or salaries in case of assignments for benefit of creditors.

3. All persons who, at the time of the seizure by the sheriff or who within one month prior thereto, were in the employment of the execution debtor, and who become entitled to share in the distribution of money levied out of the property of a debtor within the meaning of *The Creditors' Relief Act* shall be entitled to be paid out of such money the wages due to them by the execution debtor, not exceeding three months' wages, in priority to the claims of the other creditors of the execution debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O. 1937, c. 196, s. 3.

Priority over execution creditors.

Rev. Stat., c. 78.

4. All persons in the employment of an absconding debtor at the time of a seizure by the sheriff under *The Absconding Debtors Act*, or within one month prior thereto, shall be entitled to be paid by the sheriff, out of any moneys realized out of the property of the debtor, the wages due to them by the debtor, not exceeding three months' wages, in priority to the claims of the other creditors of the debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O. 1937, c. 196, s. 4.

Priority in case of attachment.

Rev. Stat., c. 1.

5. In the administration of the estate of any person dying on or after the 13th day of April, 1897, any person in the employment of the deceased at the time of his death, or within one month prior thereto, who is entitled to share in the distri-

Priority in administration of estates.

bution of the estate, shall be entitled to his wages, not exceeding three months' wages, in priority to the claims of the ordinary or general creditors of the deceased, and such person shall be entitled to rank as an ordinary or general creditor of the deceased for the residue, if any, of his claim. R.S.O. 1937, c. 196, s. 5.

When wages
to be payable
on distribu-
tion of
estate.

6.—(1) Wages in respect of which priority is conferred by this Act shall become due and be payable by the assignee, liquidator, sheriff, executor, administrator or other person charged with the duty of winding up or distributing the estate within one month from the time the estate was received by him or placed under his control, unless it appears to him that the estate is not of sufficient value to pay the claims or charges thereon having by law priority over the claims for wages and the ordinary expenses and disbursements of winding up and distributing the estate.

Ordinary
expenses,
meaning of.

(2) Ordinary expenses shall not include the cost of litigation or other unusual expenses concerning the estate or any part thereof unless the same were incurred with the consent in writing of the person entitled to the wages or are afterwards adopted or ratified by him in writing.

Protection
of assignee,
etc., paying
claims for
wages in
good faith.

(3) Any such assignee, liquidator, sheriff, executor, administrator or other person may forthwith, upon such estate coming to his hands, pay the prior claims for wages without being chargeable in case it in the end appears that the estate was insufficient to have justified such payment, if he acted in good faith and had reasonable grounds to believe that the estate would prove sufficient.

Joinder
of claims.

(4) Any number of claimants in respect of such prior claims for wages upon the same estate may join in any action, suit or other proceeding for the enforcement of their claims. R.S.O. 1937, c. 196, s. 6.

Extent of
exemption
from seizure
or attach-
ment.

7.—(1) Seventy per cent of any debt due or accruing due to any mechanic, workman, labourer, servant, clerk or employee for or in respect of his wages shall be exempt from seizure or attachment, provided that if a creditor of any such mechanic, workman, labourer, servant, clerk or employee, who has initiated proceedings by way of seizure or attachment of the wages of any such mechanic, workman, labourer, servant, clerk or employee, desires to contend that having regard to the nature of the debt and the circumstances of the debtor, it is unreasonable that as much as 70 per cent of such debtor's wages should be exempt, the judge may in any particular case, upon a hearing of the matter, reduce such percentage of exemption, and provided further that this section

shall apply only where the amount of such exemption exceeds the sum of \$2.50 for each working day represented by the wages seized or attached and that a portion of such debtor's wages not exceeding the sum of \$2.50 for each working day represented by the wages seized or attached shall in all cases be exempt from seizure or attachment.

(2) Nothing in this section shall apply to any case where the debt to the creditor has been contracted for board or lodging, or where the debtor is an unmarried person and the judge, upon inquiry, finds that he has no one dependent upon him for support. When no exemption.

(3) If the debtor desires to contend that in the circumstances of any particular case, having regard to the size of his family, the wages he is earning and any other matter or thing which the judge may deem proper to take into account, the exemption allowed by this section should be increased, the judge shall have power to increase and to make an order providing for an increase of exemption which he may consider just and reasonable under all the circumstances. Increase of exemption.

(4) Where the creditor intends to apply for a reduction in the amount of the exemption, he shall give notice of the intention to the employer at the time of the service of the notice or other process garnishing or attaching the wages, and if he fails to give the notice, the employer may pay into court so much only of the wages of the debtor as would not be exempt under subsection 1 and may pay the balance of the wages to the debtor. Notice of application for reduction of exemption.

(5) Subject to subsection 4, the debtor or creditor without waiting for the regular sittings of the court may apply to the judge upon at least five days notice in writing to the other party or his solicitor for an order fixing the amount of the debtor's exemption, and upon the making of the order, if the employer has paid the whole or any part of the wages into court and the amount so paid in equals or exceeds the amount allowed by way of exemption, such sum shall be forthwith paid out to the debtor, and in case the amount paid in is less than the amount so allowed, the whole amount paid in shall be paid out to the debtor. R.S.O. 1937, c. 196, s. 7. Application to judge to fix exemption.

8. Proceedings to attach any debt due or accruing due to any mechanic, workman, servant, clerk or employee for or in respect of his wages shall be taken only where the claim of the creditor against the debtor is upon a judgment. R.S.O. 1937, c. 196, s. 8. Attachment of wages only after judgment.

CHAPTER 416

The Warble Fly Control Act

1. In this Act,

Interpre-
tation.

- (a) "cattle owner" means any person owning or keeping one or more head of cattle;
- (b) "Commissioner" means Live Stock Commissioner;
- (c) "inspector" means any inspector appointed under this Act;
- (d) "Minister" means Minister of Agriculture;
- (e) "municipality" means any township;
- (f) "regulations" means regulations made under this Act;
- (g) "treated for warble fly" means treated in accordance with the regulations by the brush method or by the spray method;
- (h) "warble fly" means the insects known as *Hypoderma Bovis* or *Hypoderma Lineatum*. 1949, c. 109, s. 1.

2.—(1) Upon receipt of a petition that in the opinion of the clerk of the municipality bears the signatures of more than two-thirds of the cattle owners in the municipality, the council shall pass a by-law requiring all the cattle within the municipality to be treated for warble fly. Petition
and by-law.

(2) The clerk shall send a certified copy of the by-law to the Commissioner within seven days after it is passed. 1949, c. 109, s. 2. Copy to be
sent to
Commissioner.

3.—(1) Where a by-law under this Act is passed, the council shall appoint one or more inspectors to enforce the by-law and may purchase or otherwise acquire such equipment as it deems fit for the treatment of cattle for warble fly. Inspectors
and equip-
ment.

(2) In the performance of his duties under this Act any inspector may at any time between sunrise and sunset enter any land or building other than a dwelling house. 1949, c. 109, s. 3. Power to
enter
premises.

Failure to
comply with
by-law.

4. Where any cattle owner fails to comply with any by-law passed under this Act, the inspector may cause his cattle to be treated for warble fly and he shall be liable for the cost thereof, and in addition he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$50 for a first offence and to a penalty of not less than \$50 and not more than \$200 for any subsequent offence. 1949, c. 109, s. 4.

Regula-
tions.

5. The Lieutenant-Governor in Council may make regulations,

- (a) defining the brush method and the spray method of treatment for warble fly;
 - (b) designating the ingredients to be used and the strength thereof and prescribing the number of treatments that shall be given in a year and the times at which the treatments shall be given;
 - (c) prescribing special requirements that shall be met during such period as is designated for cattle brought within any municipality in which a by-law under this Act is in force;
 - (d) providing for the instruction of inspectors and prescribing their duties;
 - (e) providing for the making of grants by the Minister out of such moneys as may be appropriated by the Legislature for the purpose so as to reimburse any municipality to such extent as is designated for any expense it has been put to under any by-law passed pursuant to this Act;
 - (f) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1949, c. 109, s. 5.
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CHAPTER 417

The Warehousemen's Lien Act

1. In this Act,

Interpre-
tation.

- (a) "charges" has the meaning assigned to it in section 2;
- (b) "goods" includes all chattels personal other than things in action and money;
- (c) "warehouseman" means a person who receives goods for storage for reward. 1946, c. 89, s. 47 (1).

2.—(1) Subject to section 3, every warehouseman shall have a lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his authority.

Lien.

(2) The lien shall be for the amount of the warehouseman's charges, that is to say,

Amount of
lien.

- (a) all lawful charges for storage and preservation of the goods; and
- (b) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooperage, and other expenses in relation to the goods; and
- (c) all reasonable charges for any notice required to be given under this Act and *The Warehouse Receipts Act* and for notice and advertisement of sale, and for sale of the goods where default is made in satisfying the warehouseman's lien. R.S.O. 1937, c. 186, s. 2; 1946, c. 89, s. 47 (2).

Rev. Stat.,
c. 418.

3.—(1) Where the goods on which a lien exists were deposited not by the owner or by his authority, but by a person entrusted by the owner or by his authority with the possession of the goods, the warehouseman, within two months after the date of the deposit, shall give notice of the lien,

Notice of
lien when
goods in
hands of
agent, etc.

- (a) to the owner of the goods, including the person in whom the right of property therein is vested where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the

Rev. Stat.,
c. 61.

goods is filed under *The Conditional Sales Act* at the date of deposit; and

Rev. Stat.,
c. 36.

- (b) to the grantee of the goods under any bill of sale or chattel mortgage registered under *The Bills of Sale and Chattel Mortgages Act* at that date.

Form of
notice.

- (2) The notice shall be in writing and shall contain,
 - (a) a brief description of the goods; and
 - (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman, and the name of the person by whom they were deposited; and
 - (c) a statement that a lien is claimed by the warehouseman in respect of the goods under this Act.

Failure to
give notice.

- (3) Where the warehouseman fails to give the notice required by this section, his lien, as against the person to whom he has failed to give notice, shall be void as from the expiration of the period of two months from the date of the deposit of the goods. R.S.O. 1937, c. 186, s. 3.

Sale by
public
auction.

4.—(1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of warehouseman's charges, a warehouseman may sell by public auction, in the manner provided in this section, any goods upon which he has a lien for charges which have become due.

Notice of
sale.

- (2) The warehouseman shall give written notice of his intention to sell,

- (a) to the person liable as debtor for the charges for which the lien exists; and
- (b) to the owner of the goods, including the person in whom the right of property therein is vested, where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the goods is filed under *The Conditional Sales Act* at the date of deposit of the goods; and
- (c) to the grantee of the goods under any bill of sale or chattel mortgage registered under *The Bills of Sale and Chattel Mortgages Act* at that date; and
- (d) to any other person known by the warehouseman to have or claim an interest in the goods.

Form of
notice.

- (3) The notice shall contain,
 - (a) a brief description of the goods; and
 - (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit

with the warehouseman, and the name of the person by whom they were deposited; and

- (c) an itemized statement of the warehouseman's charges showing the sum due at the time of the notice; and
- (d) a demand that the amount of the charges as stated in the notice and such further charges as may accrue shall be paid on or before a day mentioned, not less than 21 days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination according to the due course of mail if it is sent by mail; and
- (e) a statement that unless the charges are paid within the time mentioned the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.

(4) Where the charges are not paid on or before the day mentioned in the notice, an advertisement of the sale, describing the goods to be sold and stating the name of the person liable as debtor for the charges for which the lien exists and the time and place of the sale, shall be published at least once a week for two consecutive weeks in a newspaper published in Ontario and circulating in the locality where the sale is to be held, and the sale shall be held not less than 14 days from the date of the first publication of the advertisement. R.S.O. 1937, c. 186, s. 4. Advertisement of sale.

5. Where a notice of lien under the provisions of section 3, or a notice of intention to sell under the provisions of section 4 has been given, but such provisions have not been strictly complied with, if the court or a judge before whom any question respecting the notice is tried or inquired into considers that such provisions have been substantially complied with, or that it would be inequitable for the lien or sale to be void by reason of such non-compliance, no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale. R.S.O. 1937, c. 186, s. 5. Substantial compliance with requirements.

6.—(1) The warehouseman shall satisfy his lien from the proceeds of the sale and shall pay over the surplus, if any, to the person entitled thereto, and the warehouseman shall when paying over the surplus deliver to the person to whom he pays it a statement of account showing how the amount has been computed. Application of proceeds of sale.

(2) If the surplus is not demanded by the person entitled thereto within 10 days after the sale, or if there are different claimants or the rights thereto are uncertain, the warehouse- When surplus to be paid into court.

man shall pay the surplus into the Supreme Court upon the order of a judge, and the order may be made *ex parte* upon such terms and conditions as to costs and otherwise as the judge may direct, and may provide to what fund or name the amount shall be credited.

Statement of
account to
be filed.

(3) The warehouseman at the time of paying the amount into court shall file in court a copy of the statement of account showing how the amount has been computed. R.S.O. 1937, c. 186, s. 6.

Discharge
of lien.

7.—(1) At any time before the goods are sold any person claiming an interest or right of possession in the goods may pay the warehouseman the amount necessary to satisfy his lien, including the expenses incurred in serving the notices, publishing the advertisement and preparing for the sale up to the time of the payment.

Disposition
of goods.

(2) The warehouseman shall deliver the goods to the person making the payment if he is the person entitled to the possession of the goods on payment of the warehouseman's charges thereon, otherwise the warehouseman shall retain possession of the goods according to the terms of the contract of deposit. R.S.O. 1937, c. 186, s. 7.

Notices,
how given.

8. Where by this Act any notice in writing is required to be given, the notice shall be given by delivering it to the person to whom it is to be given, or by sending it by prepaid registered post to his last known address. R.S.O. 1937, c. 186, s. 8.

Contract
not affected.

9. Nothing in this Act shall be deemed to affect the terms of the contract between the owner or bailor and the warehouseman. R.S.O. 1937, c. 186, s. 9; 1946, c. 89, s. 47 (3).

CHAPTER 418

The Warehouse Receipts Act**1. In this Act,**

- (a) "action" includes counterclaim and set-off; Interpretation.
- (b) "fungible goods" means goods of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit;
- (c) "goods" includes all chattels personal other than things in action and money;
- (d) "holder", as applied to a negotiable receipt, means a person who has possession of the receipt and a right of property therein, and, as applied to a non-negotiable receipt, means a person named therein as the person to whom the goods are to be delivered or his transferee;
- (e) "negotiable receipt" means a receipt in which it is stated that the goods therein specified will be delivered to bearer or to the order of a named person;
- (f) "non-negotiable receipt" means a receipt in which it is stated that the goods therein specified will be delivered to the holder thereof;
- (g) "purchaser" includes mortgagee and pledgee;
- (h) "receipt" means a warehouse receipt;
- (i) "to purchase" includes to take as mortgagee or as pledgee;
- (j) "warehouse receipt" means an acknowledgment in writing by a warehouseman of the receipt for storage of goods not his own;
- (k) "warehouseman" means a person who receives goods for storage for reward. 1946, c. 107, s. 1.

2.—(1) A receipt shall contain,

- (a) the address of the warehouse or other place where the goods are stored;
- (b) the name of the person by whom or on whose behalf the goods are deposited;

Form of
receipts.

- (c) the date of issue of the receipt;
- (d) a statement either,
 - (i) that the goods received will be delivered to the holder thereof, or
 - (ii) that the goods will be delivered to bearer or to the order of a named person;
- (e) the rate of storage charges;
- (f) a description of the goods or of the packages containing them;
- (g) the signature of the warehouseman or his authorized agent; and
- (h) a statement of the amount of any advance made and of any liability incurred for which the warehouseman claims a lien.

Omission of particulars.

(2) Where a warehouseman omits from a negotiable receipt any of the particulars set forth in subsection 1, he shall be liable for damage caused by the omission.

Idem.

(3) No receipt shall by reason of the omission of any of the particulars set forth in subsection 1 be deemed not to be a warehouse receipt.

Insertions.

(4) A warehouseman may insert in a receipt issued by him any other term or condition that,

- (a) is not contrary to any provision of this Act; and
- (b) does not impair his obligation to exercise such care and diligence in regard to the goods as a careful and vigilant owner of similar goods would exercise in the custody of them in similar circumstances.

Contract constituted.

(5) Subject to this Act, a warehouse receipt issued by a warehouseman, when delivered to the owner or bailor of the goods or mailed to him at his address last known to the warehouseman, shall constitute the contract between the owner or bailor and the warehouseman; provided that the owner or bailor may within 20 days after such delivery or mailing notify the warehouseman in writing that he does not accept such contract and thereupon he shall remove the goods deposited subject to the warehouseman's lien for charges and if such notice is not given then the warehouse receipt so delivered or mailed shall constitute the contract. 1946, c. 107, s. 2.

Negotiable receipts.

3. Words in a negotiable receipt limiting its negotiability shall be void. 1946, c. 107, s. 3.

4.—(1) No more than one receipt shall be issued in respect of the same goods except in case of a lost or destroyed receipt, in which case the new receipt, if one is given, shall bear the same date as the original, and shall be plainly marked on its face “duplicate”. Marking of duplicate receipts.

(2) A warehouseman shall be liable for all damage caused by his failure to observe the provisions of subsection 1 to any person who purchases the subsequent receipt for valuable consideration, believing it to be an original, even though the purchase be after the delivery of the goods by the warehouseman to the holder of the original receipt. Liability when not so marked.

(3) A receipt upon the face of which the word “duplicate” is plainly marked is a representation and warranty by the warehouseman that it is an accurate copy of a receipt properly issued and uncanceled at the date of the issue of the duplicate. Effect of duplicate receipts.
1946, c. 107, s. 4.

5.—(1) A warehouseman who issues a non-negotiable receipt shall cause to be plainly marked upon its face the words “non-negotiable” or “not negotiable”. Marking of non-negotiable receipts.

(2) Where a warehouseman fails to comply with subsection 1, a holder of the receipt who purchases it for valuable consideration believing it to be negotiable may, at his option, treat the receipt as vesting in him all rights attaching to a negotiable receipt and imposing upon the warehouseman the same liabilities he would have incurred had the receipt been negotiable, and the warehouseman shall be liable accordingly. Failure to mark.
1946, c. 107, s. 5.

6.—(1) A warehouseman in the absence of lawful excuse shall deliver the goods referred to therein, Duty to deliver.

(a) in the case of a negotiable receipt, to the bearer thereof upon demand made by the bearer and upon the bearer,

- (i) satisfying the warehouseman's lien,
- (ii) surrendering the receipt with such endorsements as are necessary for the negotiation of the receipt, and
- (iii) acknowledging in writing the delivery of the goods; and

(b) in the case of a non-negotiable receipt, to the holder thereof upon the holder,

- (i) satisfying the warehouseman's lien, and
- (ii) acknowledging in writing the delivery of the goods.

Failure to deliver.

(2) Where a warehouseman refuses or fails to deliver the goods in compliance with subsection 1, the burden shall be upon the warehouseman to establish the existence of a lawful excuse for his refusal or failure. 1946, c. 107, s. 6.

Delivery on presentation of a negotiable receipt.

7. Where a person is in possession of a negotiable receipt that has been duly endorsed to him or endorsed in blank, or by the terms of which the goods are deliverable to him or his order or to bearer, if delivery is made in good faith and without notice of any defect in the title of that person, the warehouseman is justified in delivering the goods to that person. 1946, c. 107, s. 7.

Negotiable receipts must be cancelled on delivery of goods.

8.—(1) Except as provided in section 18, where a warehouseman delivers goods for which he has issued a negotiable receipt and fails to take up and cancel the receipt, he shall be liable, for failure to deliver the goods, to anyone who purchases the receipt in good faith and for valuable consideration, whether he acquired title to the receipt before or after delivery of the goods by the warehouseman.

Negotiable receipts to be marked on delivery of part of goods.

(2) Except as provided in section 18, where a warehouseman delivers part of the goods for which he has issued a negotiable receipt and fails either to take up and cancel the receipt, or to place plainly upon it a statement of what goods or packages have been delivered, he shall be liable, for failure to deliver all the goods specified in the receipt, to anyone who purchases the receipt in good faith and for valuable consideration, whether the purchaser acquired title to the receipt before or after the delivery of any portion of the goods. 1946, c. 107, s. 8.

Lost or destroyed receipts.

9. Where a negotiable receipt has been lost or destroyed, a judge of the Supreme Court, upon application after notice to the warehouseman by the person lawfully entitled to possession of the goods, may upon satisfactory proof of such loss or destruction order the delivery of the goods upon the giving of a bond with sufficient sureties to be approved in accordance with the practice of the court to indemnify the warehouseman against any liability, cost or expense he may be under or be put to by reason of the original receipt remaining outstanding, and the warehouseman shall be entitled to his costs of the application. 1946, c. 107, s. 9.

Warehouseman has reasonable time to determine validity of claims.

10. Where a warehouseman has information that a person other than the holder of a receipt claims to be the owner of or entitled to the goods, he may refuse to deliver the goods until he has had a reasonable time, not exceeding 10 days, to ascertain the validity of the adverse claim or to commence interpleader proceedings. 1946, c. 107, s. 10.

11. A negotiable receipt shall in the hands of a holder who has purchased it for valuable consideration be conclusive evidence of the receipt by the warehouseman of the goods therein described as against the warehouseman and any person signing the same on his behalf, notwithstanding that the goods or some part thereof may not have been so received unless the holder of the negotiable receipt has actual notice at the time of receiving same, that the goods have not in fact been received. 1946, c. 107, s. 11.

Conclusive-
ness of
negotiable
receipt.

- 12.** Where goods are described in a receipt merely by,
- (a) a statement of certain marks or labels on the goods or on the packages containing them;
 - (b) a statement that the goods are said by the depositor to be goods of a certain kind;
 - (c) a statement that the packages containing the goods are said by the depositor to contain goods of a certain kind; or
 - (d) a statement of import similar to that of clause a, b or c,

Description
of goods in
receipt.

the statement shall not impose any liability on the warehouseman in respect of the nature, kind or quality of the goods, but shall be deemed to be a representation by the warehouseman either that the marks or labels were in fact on the goods or packages, or that the goods were in fact described by the depositor as stated, or that the packages containing the goods were in fact described by the depositor as containing goods of a certain kind, as the case may be. 1946, c. 107, s. 12.

13. A warehouseman shall be liable for loss of or injury to goods caused by his failure to exercise such care and diligence in regard to them as a careful and vigilant owner of similar goods would exercise in the custody of them in similar circumstances. 1946, c. 107, s. 13.

Liability for
care of
goods.

14. Where authorized by agreement or by custom, a warehouseman may mingle fungible goods with other goods of the same kind and grade, and in that case the holders of the receipts for the mingled goods shall own the entire mass in common, and each holder shall be entitled to such proportion thereof as the quantity shown by his receipt to have been deposited bears to the whole. 1946, c. 107, s. 14.

Co-mingled
goods and
warehouse-
man's
liability
therefor.

15. Where goods are delivered to a warehouseman by the owner or person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner and a negotiable receipt is issued for them, they cannot thereafter while in the possession of the warehouseman, be levied under

Attachment
or levy upon
goods for
which a
negotiable
receipt has
been issued.

an execution, unless the receipt is first surrendered to the warehouseman. 1946, c. 107, s. 15.

Negotiable receipt must state charges for which lien is claimed.

16. Where a negotiable receipt is issued for goods, the warehouseman shall have no lien on the goods, except for charges for storage of those goods subsequent to the date of the receipt, unless the receipt expressly enumerates other charges for which a lien is claimed. 1946, c. 107, s. 16.

Perishable and hazardous goods.

17.—(1) Where goods are of a perishable nature or by keeping will deteriorate greatly in value or injure other property, the warehouseman may give such notice as is reasonable and possible under the circumstances to the holder of the receipt for the goods, if the name and address of the holder is known to the warehouseman, or if not known to him, then to the depositor, requiring him to satisfy the lien upon the goods and to remove them from the warehouse, and on the failure of such person to satisfy the lien and remove the goods within the time specified in the notice, the warehouseman may sell the goods at public or private sale without advertising.

Giving of notice.

(2) The notice referred to in subsection 1 may be given by sending it by registered letter post addressed to the person to whom it is to be given at the person's last known place of address and the notice shall be deemed to be given on the day following the mailing.

Disposal of goods.

(3) If the warehouseman after a reasonable effort is unable to sell the goods, he may dispose of them in any manner he may think fit, and shall incur no liability by reason thereof.

Proceeds of sale.

(4) The warehouseman shall satisfy his lien from the proceeds of any sale made pursuant to this section, and shall hold the balance in trust for the holder of the receipt. 1946, c. 107, s. 17.

Effect of sale.

18. Where goods have been lawfully sold to satisfy a warehouseman's lien or have been lawfully sold or disposed of pursuant to section 17, the warehouseman shall not be liable for failure to deliver the goods to the holder of the receipt. 1946, c. 107, s. 18.

Negotiation of negotiable receipts.

19.—(1) A negotiable receipt may be negotiated by delivery,

(a) where by the terms of the receipt the warehouseman undertakes to deliver the goods to the bearer; or

- (b) where by the terms of the receipt the warehouseman undertakes to deliver the goods to the order of a named person and that person or a subsequent endorsee has endorsed it in blank or to bearer.

(2) Where by the terms of a negotiable receipt the goods Idem. are deliverable to bearer, or where a negotiable receipt has been endorsed in blank or to bearer, the receipt may be negotiated by the bearer endorsing the same to a named person, and in that case the receipt shall thereafter be negotiated by the endorsement of the endorsee or a subsequent endorsee or by delivery if it is again endorsed in blank or to bearer.

(3) Where by the terms of a negotiable receipt the goods Idem. are deliverable to the order of a named person, the receipt may be negotiated by the endorsement of that person.

(4) An endorsement pursuant to subsection 3 may be in Idem. blank, to bearer or to a named person, and if the endorsement is to a named person, the receipt may be again negotiated by endorsement in blank, to bearer or to another named person, and subsequent negotiation may be made in like manner. 1946, c. 107, s. 19.

20. The goods covered by a non-negotiable receipt may be Transfer of receipts. transferred by the holder by delivery to a purchaser or donee of the goods of a transfer in writing executed by the holder, but the transfer shall not affect or bind the warehouseman until he is notified in writing thereof. 1946, c. 107, s. 20.

21.—(1) A person to whom the goods covered by a non-negotiable receipt are transferred acquired, as against the transferor, Rights of person to whom a receipt has been transferred.

(a) the title to the goods; and

(b) the right to deposit with the warehouseman the transfer or duplicate thereof or to give notice in writing to the warehouseman of the transfer.

(2) The transferee acquires the benefit of the obligation of Idem. the warehouseman to hold possession of the goods for him according to the terms of the receipt upon,

(a) deposit of the transfer of the goods; or

(b) giving notice in writing of the transfer and upon the warehouseman having a reasonable opportunity of verifying the transfer. 1946, c. 107, s. 21.

22. A person to whom a negotiable receipt is duly negotiated acquires,

Rights of person to whom a receipt has been negotiated.

- (a) such title to the goods as the person negotiating the receipt to him had or had ability to transfer to a purchaser in good faith for valuable consideration and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of receipt had or had ability to transfer to a purchaser in good faith for valuable consideration; and
- (b) the benefit of the obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouseman had contracted directly with him. 1946, c. 107, s. 22.

Transfer of negotiable receipt without endorsement.

23. Where a negotiable receipt is transferred for valuable consideration by delivery and the endorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to endorse the receipt, unless a contrary intention appears and the negotiation shall take effect as of the time when the endorsement is made. 1946, c. 107, s. 23.

Warranties on sale of receipt.

24. A person who for valuable consideration negotiates or transfers a receipt by endorsement or delivery, including one who assigns for valuable consideration a claim secured by a receipt, unless a contrary intention appears, warrants,

- (a) that the receipt is genuine;
- (b) that he has a legal right to negotiate or transfer it;
- (c) that he has no knowledge of any fact that would impair the validity of the receipt; and
- (d) that he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented thereby. 1946, c. 107, s. 24.

Endorser not a guarantor.

25. The endorsement of a receipt shall not make the endorser liable for any failure on the part of the warehouseman or previous endorsers of the receipt to fulfil their respective obligations. 1946, c. 107, s. 25.

When negotiation not impaired by fraud, mistake or duress.

26. The validity of the negotiation of a receipt is not impaired by the fact that the negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the receipt was induced by fraud, mistake or duress to entrust the possession or custody of the

receipt to such person, if the person to whom the receipt was negotiated, or a person to whom the receipt was subsequently negotiated, paid value therefor without notice of the breach of duty, or fraud, mistake or duress. 1946, c. 107, s. 26.

27. Where a person having sold, mortgaged or pledged goods that are in a warehouse and for which a negotiable receipt has been issued, or having sold, mortgaged or pledged a negotiable receipt representing goods, continues in possession of the negotiable receipt, the subsequent negotiation thereof by that person under any sale or other disposition thereof to any person receiving the same in good faith, for valuable consideration and without notice of the previous sale, mortgage or pledge, shall have the same effect as if a previous purchaser of the goods or receipt had expressly authorized the subsequent negotiation. 1946, c. 107, s. 27. Subsequent negotiation.

28. Where a negotiable receipt has been issued for goods, no seller's lien or right of stoppage in transitu shall defeat the rights of a purchaser for value in good faith to whom the receipt has been negotiated, whether the negotiation be prior or subsequent to the notification to the warehouseman who issued the receipt of the seller's claim to a lien or right of stoppage in transitu and the warehouseman shall not deliver the goods to an unpaid seller unless the receipt is first surrendered for cancellation. 1946, c. 107, s. 28. Negotiation defeats vendor's lien.

29. Nothing herein shall be deemed to include or apply to the manager or operator of a grain elevator as "Manager," and "Operator" are defined by *The Canada Grain Act* (Canada) or any railway or express company within the jurisdiction of the Parliament of Canada. 1946, c. 107, s. 29. Where Act not to apply. 1930, c. 5 (Can.)

30. This Act does not apply to receipts made and delivered before the 1st day of June, 1946. 1946, c. 107, s. 30. Application of Act.

31. This Act shall not apply to the storage of furs, garments and home furnishings, other than furniture, which are ordinarily used by the person placing them in storage or a member of his family or household, until a day to be named by the Lieutenant-Governor by his Proclamation. 1946, c. 107, s. 31. Application to storage of furs, etc., to be proclaimed.

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CHAPTER 419

The War Veterans Burial Act

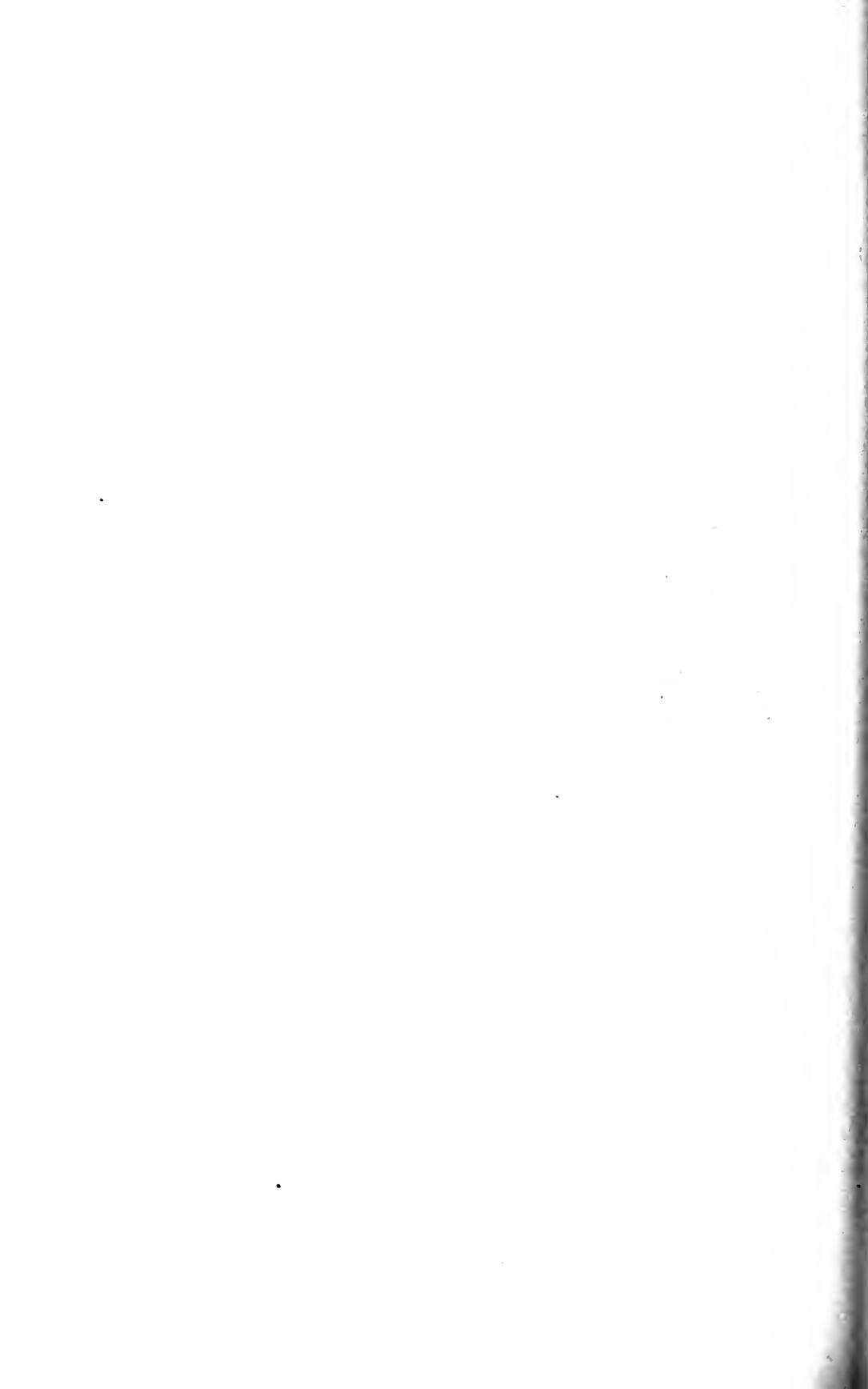
1. In the event of the death of any person who was an indigent person and who was a member of His Majesty's naval, military or air forces in active service during any war, and his burial was provided by and paid for from the Last Post Fund, the municipality in which he resided at the time of his death shall pay the expenses of such burial, but not exceeding the sum of \$15, to the Fund upon proof of such burial and demand for payment made by a properly accredited officer of the Fund. R.S.O. 1937, c. 352, s. 1; 1938, c. 3, s. 2.

Liability
of municipi-
pality for
burial of
veterans.

2. In the event of the death of any workman who was a member of His Majesty's naval, military or air forces in active service during any war, and the burial was provided by and paid for from the Last Post Fund, the necessary expenses of the burial payable under clause *a* of subsection 1 of section 36 of *The Workmen's Compensation Act*, not exceeding \$100, shall be paid to the Fund. R.S.O. 1937, c. 352, s. 2; 1938, c. 3, s. 3.

In case of
workman,
compensa-
tion payable
to Last Post
Fund.

Rev. Stat.,
c. 430.



CHAPTER 420

The Water Powers Regulation Act

1. In this Act,

Interpre-
tation.

- (a) "inspector" means a commission, public body or person designated by the Lieutenant-Governor in Council to act as inspector under this Act, and includes the officers, agents and servants of the inspector employed and acting under the authority and direction of such inspector;
- (b) "owner of a water power" means every municipal corporation, company, firm or individual being or claiming to be the owner, lessee, licensee, occupant, tenant or assignee of a right to use any of the waters of Ontario for the purpose of generating hydraulic, electrical or pneumatic power or energy under any grant, lease or licence from the Crown, or any person, or under contract with, or franchise from any public body representing the Crown or the Province of Ontario or under the general law or any special Act of the Legislature or otherwise;
- (c) "power" means hydraulic, electrical or pneumatic power or energy;
- (d) "regulations" means regulations made under this Act;
- (e) "works" means every dam, wing dam, forebay, gate, rack, canal, conduit, pipe, aqueduct, penstock, tunnel and every other work which has been or may be constructed or used for or in connection with the control or diversion of water and the conveying of it to a power house or other place at which power may be generated, and includes all buildings, structures, plant, machinery, appliances and other works and things now or hereafter used for or appurtenant to the production and generation of power. R.S.O. 1937, c. 63, s. 1.

2. It shall be the duty of every owner of a water power to ensure as far as possible the economical and efficient use of the water used by him. R.S.O. 1937, c. 63, s. 2.

Duty of
owner as
to use of
water.

Appoint-
ment and
powers of
inspectors.

3. The Lieutenant-Governor in Council may appoint an inspector or inspectors who, in addition to the powers herein-after mentioned, when required by the Lieutenant-Governor in Council so to do, may

- (a) at all reasonable times enter upon any works and examine and inspect the same;
- (b) take such measurements and tests as may be necessary from time to time in order to determine or to fix, as the case may be, in respect of the owner of any water power,
 - (i) the quantity of water used, permitted to be used or available for use,
 - (ii) operating head and head losses,
 - (iii) electrical and hydraulic efficiency of main or auxiliary machinery or of any other portion of the works, or of the works as a whole,
 - (iv) the amount of power developed, permitted to be developed or available for development,
 - (v) fix in terms of cubic feet per second the amount of water which it is necessary to use in order to develop or generate any amount of horsepower or to exercise any water rights for any purpose;
- (c) require the production of books, records, charts, readings, maps, plans, load curves and all other documents and records pertaining to the matters to be investigated, inquired into or determined under this Act;
- (d) if it appears to him that the water permitted to be used is not being utilized with a proper degree of efficiency or economy, or that the works or any part of the works are so constructed, or are of such a type, or have so depreciated that the water cannot be used with a proper degree of efficiency or economy, after giving the interested parties a reasonable opportunity to be heard, order the water to be used, or the machinery or the works or any part of them, to be replaced or removed, altered or reconstructed, as the case may be, in such manner or to such an extent as may be necessary to secure the proper degree of efficient and economical use of the water; and

- (e) if any order so made is not carried out within a reasonable time, enter upon the works and, at the expense of the owner of a water power, shut off or reduce the supply of water or close the works or any part thereof in such a manner as to prevent further use until such order has been obeyed. R.S.O. 1937, c. 63, s. 3.

4.—(1) Where an order made by the inspector calls for alterations, repairs or improvements in the works, there may be an appeal from the order of the inspector to the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may make such order in the premises as may be deemed meet, which order shall be final.

Appeal to
Lieutenant-
Governor
in Council.

(2) Upon such appeal, if the Lieutenant-Governor in Council is of the opinion that the additions, alterations or improvements required to be made in the works will be of material public advantage by reason of the more efficient or economical use of the water and that the owner of the water power will not presently receive a corresponding commercial advantage from such alterations or improvements, the Lieutenant-Governor in Council may direct a reference to determine what compensation, if any, should be made to the owner of the water power by reason of his being compelled to make such additions, alterations or improvements; and upon such reference all the circumstances shall be taken into account and if the referee is of opinion that the owner is entitled to compensation, the referee may fix the amount thereof at such sum as he may deem just and reasonable, and upon the owner carrying out the order of the inspector or of the Lieutenant-Governor in Council, the amount so awarded shall be payable to the owner in the same manner as a judgment recovered against the Crown in any court in Ontario. R.S.O. 1937, c. 63, s. 4.

Reference
to deter-
mine com-
pensation
of owner.

5. It shall be the duty of the owner of a water power, subject to the right of appeal hereinbefore given, to obey at all times the orders of the inspector and to afford every facility for carrying out this Act and the regulations, and every owner of a water power who neglects or refuses to carry out any such order or who obstructs or hinders or delays the inspector or refuses to furnish him with such information and records as he may require, shall be liable to a penalty of not less than \$300 and not more than \$2,000, and each and every day on which such offence is committed or continued shall be deemed to create a separate offence. R.S.O. 1937, c. 63, s. 5.

Duty of
owner as to
inspection.

6.—(1) Where an inspector appointed under section 3 has been directed or required by the Lieutenant-Governor in

Inspector's
application
to judge for
order when
obstructed,
etc.

Council to exercise any of the powers or to perform any of the duties set out in clauses *a* to *e* of that section, and the owner of the water power, or any officer, agent or servant of the owner of a water power, hinders, delays or obstructs the inspector in the performance of any such duty, or refuses to permit the inspector to enter upon the premises of the owner of the water power, or to carry out or exercise any of such powers and duties, the inspector may apply to the judge of the county or district court, or to a judge of the Supreme Court, in a summary manner, for an order directing the owner of the water power, his officers, agents or servants, to afford such facilities for inspection as may be necessary for carrying out this Act and the regulations, and require him to obey the orders of the inspector on that behalf, and to admit the inspector to the premises of the owner of the water power, and to cease from such obstruction, hindrance or delay, and to furnish the inspector with such information and records as he may require in order to comply with the direction or requirements of the Lieutenant-Governor in Council.

Order of
judge.

(2) Upon such application the judge may make such order as he deems requisite in order to secure compliance with this Act and the regulations and the performance by the inspector of his duties, and such order shall be final and shall not be subject to appeal.

Application
of
Rev. Stat.,
c. 189.

(3) *The Judges' Orders Enforcement Act* shall apply to every application and order made under this section. R.S.O. 1937, c. 63, s. 6.

Fixing
quantity of
water to be
taken in
exercise
of rights.

7. Where any lease, licence, Order in Council or other instrument or any general or special statutory provision confers or purports to confer the right to develop or generate power measured expressly or impliedly in horsepower, or where any such instrument or provision confers or purports to confer a right of diversion or use of water defined wholly or in part by the character, location or dimensions of works, the inspector may fix in terms of cubic feet per second the amount of water which it is necessary to use in order to develop or generate such power or to exercise such right, having regard to the location of the works and to all the circumstances of the case and to the degree of efficiency which the owner of the water power should be required to maintain in the premises. R.S.O. 1937, c. 63, s. 7.

Submission
and
approval
of plans.

8. Every owner of a water power, before proceeding with the construction of any works or any alteration or extension of existing works or with the purchase or installation of new works, shall submit to an inspector plans and specifications

showing the details of the proposed construction, alteration or extension or of the new works proposed to be purchased or installed, and he shall not proceed therewith or let contracts therefor until such plans and specifications have been approved by the inspector. R.S.O. 1937, c. 63, s. 8.

9.—(1) Where the rights of the owner of a water power to use water for the purpose of generating power do not appear to be expressly or impliedly limited by any stipulation as to the quantity of water to be used or as to the amount of horsepower which may be generated or otherwise, and the Lieutenant-Governor in Council deems it desirable in the public interest that such rights should be specifically limited and defined, he may direct the inspector to inquire and report,

Limitation and definition of rights by Lieutenant-Governor in Council.

- (a) as to the amount of power which the owner of a water power is authorized to generate under any contract, lease, licence or other instrument, or under any general or special Act of the Legislature or otherwise; and
- (b) as to the quantity of water which it is necessary, having due regard to efficiency and economy in development, to use for the purpose of generating such amount of power,

and upon such report the Lieutenant-Governor in Council may fix and determine, in horsepower, the amount of power which the owner shall generate and in terms of cubic feet per second the amount of water which it is necessary to use in order to develop or generate such power.

(2) If the owner is dissatisfied with the construction so placed upon his rights, or with such limitation and definition, the Lieutenant-Governor in Council may, upon the application of the owner, direct a reference to ascertain what rights, if any, have been restricted or impaired by such limitation and definition, and if it is found that such rights exist and that they are so restricted or impaired, to ascertain the compensation that should be paid to the owner for such restriction or impairment.

Reference to ascertain rights affected.

(3) The amount of the compensation awarded to the owner upon such reference shall be paid to him in the same manner as the amount of a judgment recovered against the Crown. R.S.O. 1937, c. 63, s. 9.

Payment of compensation.

10.—(1) Where the Lieutenant-Governor in Council deems that the public interest requires that any rights conferred upon the owner of a water power should be restricted or limited in any particular, he may by Order in Council

Limitation of rights of owner by Order in Council.

limit, define or restrict such rights to the construction, operation and use of such works only as may be deemed expedient in the public interest.

Reference to determine compensation.

(2) If the owner deems himself aggrieved by any such limitation, definition or restriction, the Lieutenant-Governor in Council may direct a reference to determine what compensation, if any, should be paid to the owner, and the referee shall have the like powers and shall proceed in the same manner, and the amount awarded shall be payable in the same way as in the case of a reference under section 9. R.S.O. 1937, c. 63, s. 10.

Matters to be considered on reference.

11.—(1) Upon any reference under this Act, the referee shall take into consideration,

- (a) the conditions under which any rights to generate or develop power were originally obtained;
- (b) the consideration paid or agreed to therefor;
- (c) the capital invested in any works by the owner of a water power;
- (d) the circumstances which render any limitation or restriction of such rights necessary and desirable in the public interest.

Powers of commissioner.

(2) The referee, upon any inquiry under this Act directed by the Lieutenant-Governor in Council, shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1937, c. 63, s. 11.

Rev. Stat., c. 308.

Regulations by Lieutenant-Governor in Council.

12. The Lieutenant-Governor in Council may make regulations respecting,

- (a) the procedure to be followed by the inspector and for conferring upon him the powers of a commissioner under *The Public Inquiries Act*;
- (b) the form and term of notices to be given by the inspector and the enforcement of his orders;
- (c) the appointment of officers, servants and agents by the inspector and their duties and powers;
- (d) the procedure to be followed upon any appeal from an order of the inspector;
- (e) any return to be made by the owner of a water power and the particulars to be stated in such returns;

- (f) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 63, s. 12.

13.—(1) Where the inspector reports that the owner of a water power, Where owner exceeds his rights, etc.

- (a) is diverting or using more water than the owner is entitled to divert or use; or
- (b) is developing or generating a greater amount of power in horsepower than the owner is entitled to develop or generate; or
- (c) has installed works and equipment capable of developing or generating a greater amount of power in horsepower than the owner is entitled to develop or generate,

the Lieutenant-Governor in Council may appoint three commissioners, who shall be judges of the Supreme Court, to hold an inquiry under *The Public Inquiries Act*, and report to the Lieutenant-Governor in Council as to, Rev. Stat., c. 308.

- (d) the quantity of water in cubic feet per second which the owner is entitled to divert or use;
- (e) the amount of power in horsepower which the owner is entitled to develop or generate;
- (f) the extent, if any, by which the capacity of the works installed or equipped by the owner, exceeds the amount of power in horsepower which the owner is entitled to develop or generate;
- (g) the price and terms and conditions upon which, having regard to all the circumstances and to the rights of the owner as ascertained by the commissioners, the power to the extent of such excess should be delivered to The Hydro-Electric Power Commission of Ontario as hereinafter provided; and
- (h) such other matters connected with or arising out of the subject matter of the reference as they may deem expedient.

(2) If the commissioners find that the owner is diverting or using more water than he is entitled to divert or use, or is developing or generating a greater amount of power in horsepower than he is entitled to develop or generate, or that he has installed and equipped works exceeding in capacity the amount of power which he is entitled to develop or generate, the Lieutenant-Governor in Council may order the owner to Where commissioners find that owner is exceeding his rights.

deliver to The Hydro-Electric Power Commission of Ontario, upon the date named in the order such amount of electrical power or energy as equals such excess as found by the report of the commissioners, or to operate the works of the owner to their full capacity and to deliver such excess power to The Hydro-Electric Power Commission of Ontario.

Penalty for disobedience to order.

(3) If the owner refuses or neglects to deliver such power after notice in writing so to do, he shall be liable to a penalty of \$1,000 for every day during which such neglect or default continues, to be recoverable by action in the Supreme Court at the suit of the Attorney-General.

Other liabilities of owner not affected.

(4) Nothing in this section shall affect or diminish any duty or obligation as to payment of any penalty or rental to which the owner might otherwise be liable for exceeding the amount of power which he is entitled to develop or generate, and all such penalties may be collected and all such rentals shall be due and payable and the like proceedings may be taken by the Crown or by any commission or other public body from which the rights or franchises of the owner are derived, as if this Act had not been passed. R.S.O. 1937, c. 63, s. 13.

Owner exceeding right to use water or develop power at Niagara Falls.

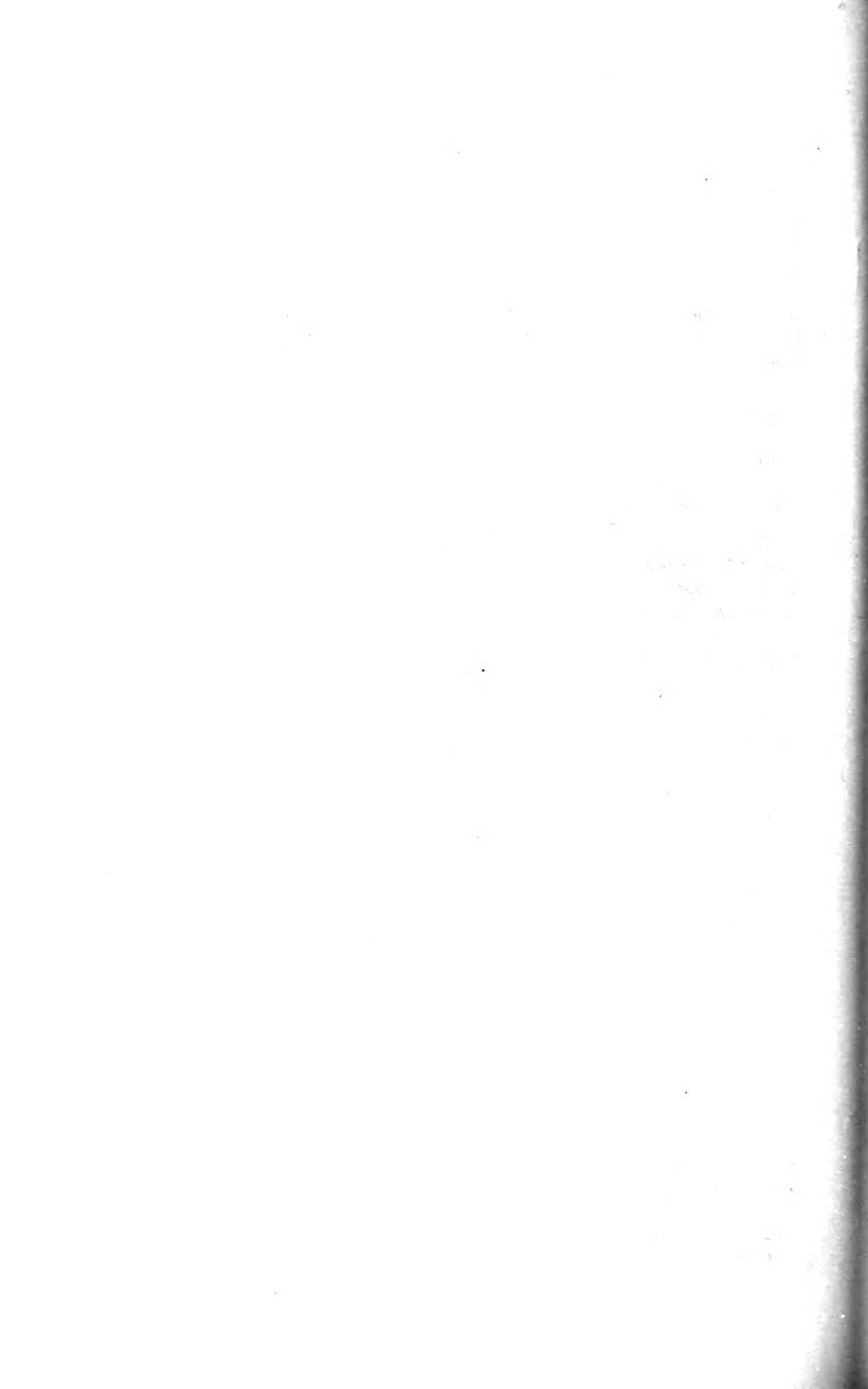
14. Where the owner is developing electrical power or energy by the diversion of the waters of the Niagara River under any contract, agreement, licence, lease or other instrument entered into by the owner or his predecessors in title with or granted to the owner or his predecessors in title by the Commissioners of the Queen Victoria Niagara Falls Park, and the owner diverts or uses more water than he is entitled to divert or use or develops or generates a greater amount of electrical energy than he is entitled to develop or generate under the contract, agreement, licence, lease or other instrument, the inspector may, with the authority of the Lieutenant-Governor in Council, give to the owner notice in writing to cease diverting or using more water than he is entitled to divert or use or generating or developing a greater amount of electrical power or energy than he is entitled to develop or generate, and if the owner, after the expiration of one month from the giving of such notice, diverts or uses more water than he is entitled to divert or use or develops or generates a greater amount of electrical power or energy than he is entitled to develop or generate, then every franchise or right of occupancy or possession or right to develop or use any of the waters of the Niagara River or to operate or construct any works which may be enjoyed by the owner therefor, and notwithstanding anything contained in any such contract, agreement, licence, lease or other instrument or in any by-law or in any

general or special Act of the Legislature shall cease and be at an end. R.S.O. 1937, c. 63, s. 14.

15. The Lieutenant-Governor in Council may, at any time, rescind any order made by him under subsection 2 of section 13, and thereupon all right of the owner to develop power or use water or develop or generate power in excess of the owner's rights as found by the commissioners shall cease, but any such rescission shall not relieve the owner from any penalties incurred by him under subsection 3 of section 13 prior to the date of such rescission. R.S.O. 1937, c. 63, s. 15.

16.—(1) The Minister of Lands and Forests in his discretion may fix the terms and conditions upon which water powers or privileges granted by the Crown and any Crown lands necessary for the development thereof may be sold or leased and developed.

(2) All agreements, leases, licences, renewals or other writings relating to water powers or privileges or any Crown lands necessary for the development thereof shall be binding upon the Crown when signed by the Minister of Lands and Forests or by the Deputy Minister of Lands and Forests. 1949, c. 110, s. 1.



CHAPTER 421

The Weed Control Act

1. In this Act,

Interpre-
tation.

- (a) "district inspector" means a person appointed or designated by the Lieutenant-Governor in Council to enforce this Act;
- (b) "inspector" means a person appointed or designated by the council of a municipality to enforce this Act;
- (c) "Minister" means Minister of Agriculture;
- (d) "noxious weed" means a plant that is designated under this Act as a noxious weed;
- (e) "regulations" means regulations made under this Act;
- (f) "weed seed" means seed of a noxious weed. 1950, c. 88, s. 1.

2.—(1) The Lieutenant-Governor in Council may designate any plant as a noxious weed, and with the consent of the Minister any municipality may by by-law designate any other plant as a noxious weed within the municipality.

Designation
of plants
as noxious
weeds.

(2) No such by-law shall come into force until it is published in *The Ontario Gazette* and it shall then have the same force within the municipality as if the plant designated as a noxious weed in the by-law had been designated as a noxious weed by the Lieutenant-Governor in Council. 1950, c. 88, s. 2.

Publication
of by-laws.

3.—(1) Every occupant of land, or if the land is unoccupied, the owner, shall destroy all noxious weeds thereon as often in every year as is necessary to prevent the ripening of their seeds.

Duty to
destroy
noxious
weeds.

(2) Where the land abuts a river, stream, lake or other body of water, the occupant or owner, as the case may be, shall destroy all noxious weeds as required under subsection 1 that are growing between the limit of his land and the low water mark of the river, stream, lake or other body of water. 1950, c. 88, s. 3.

Riparian
owners.

Road
authorities.
Rev. Stat.,
c. 166.

4.—(1) For the purposes of section 3 every road authority within the meaning of *The Highway Improvement Act* shall be deemed to be the occupant of the land under its jurisdiction.

Sanction.

(2) Where the Minister is of opinion that any road authority has failed to perform its duty under section 3, the Lieutenant-Governor in Council may direct that any sums of money payable out of the Consolidated Revenue Fund to the road authority be withheld until such time as the Minister of Highways is satisfied that the road authority has performed such duty. 1950, c. 88, s. 4.

Appoint-
ment of
inspectors.

5.—(1) The council of every county, every municipality not forming part of a county for municipal purposes, and every municipality in a territorial district shall, and any town, village or township in a county may, pass by-laws appointing one or more persons as inspectors and fixing the remuneration or other compensation for their services under this Act.

Division of
municipality
into sec-
tions.

(2) Any such council may divide the municipality into sections and appoint one or more inspectors for each section.

Failure to
appoint
inspectors.

(3) Where the appointment of one or more inspectors is required by this Act and the council neglects or refuses to do so, the Minister may in writing addressed to the council appoint one or more persons as inspectors for the municipality, fix the remuneration or other compensation for their services under this Act and direct the treasurer of the municipality to pay the same.

Incom-
petence.

(4) If in the opinion of the Minister any inspector is incompetent or remiss in the discharge of his duties, the Minister may, in writing addressed to the council concerned, annul the appointment of such inspector. 1950, c. 88, s. 5.

Unorganized
territory.

6. Where road commissioners have been appointed under *The Statute Labour Act* in unorganized territory, they shall for the purposes of this Act have the powers and perform the duties of an inspector, and the provisions of this Act and the regulations shall apply in the same manner as in the case of a municipality except that any sums payable by a person liable for expenses incurred or remuneration paid in enforcing this Act shall be collectable in the manner provided in *The Statute Labour Act* with respect to the enforcement of the payment of charges for statute labour or commutation thereof. 1950, c. 88, s. 6.

Rev. Stat.,
c. 372.

Powers of
inspectors.

7. In order to search for noxious weeds or weed seeds in his jurisdiction any inspector at any time between sunrise and sunset may enter upon any land, and may enter any

building other than a dwelling house, and may inspect any machinery, implement or vehicle. 1950, c. 88, s. 7.

8.—(1) Where the inspector finds noxious weeds or weed seeds on any land and the occupant, or if the land is unoccupied, the owner, resides within his jurisdiction, the inspector shall confer with him as to a satisfactory method of destroying such noxious weeds or weed seeds, and if satisfactory arrangements are agreed upon, the inspector and the occupant or owner, as the case may be, may draw up and sign a memorandum of the agreement in the form prescribed in the regulations. Agreement for destruction.

(2) Where no such agreement is made or where such agreement is made but the occupant or owner making it fails to carry out its terms, or the inspector is unable to find the occupant or owner at his usual place of residence on two different days, the inspector may issue an order in the form prescribed in the regulations requiring the person named therein to destroy the noxious weeds or weed seeds within the period of time specified therein, which period shall not commence until at least three days after the person named in the order has been served with a copy thereof. Order for destruction, residents.

(3) The order shall be served by leaving a copy thereof with an adult person at the usual place of residence of the person named therein or by sending it by registered post addressed to the person named therein at his usual place of residence. 1950, c. 88, s. 8. Service of order.

9.—(1) Where the inspector finds noxious weeds or weed seeds on any unoccupied land and the owner does not reside within his jurisdiction, the inspector may issue an order in the form prescribed in the regulations requiring the person named in the order to destroy the noxious weeds or weed seeds within the period of time specified therein, which period shall not commence until at least five days after the person named in the order has been served with a copy thereof. Order for destruction, non-residents.

(2) The order shall be served by sending a copy thereof by registered post addressed to the person named therein at his usual place of residence. 1950, c. 88, s. 9. Service of order.

10. If the person named in an order issued under section 8 or 9 fails to comply therewith, the inspector may cause the noxious weeds or weed seeds to be destroyed in such manner as he may deem proper. 1950, c. 88, s. 10. Failure to comply with order.

11.—(1) Every inspector shall keep a record of the expenses incurred by him in the discharge of his duties under Expenses of inspectors.

this Act with respect to each parcel of land concerned, and he shall serve a statement thereof, together with a notice requesting payment, on the occupant of the land, or if it is unoccupied, on the owner thereof.

Service of
statement.

(2) The statement and notice shall be served in the same manner as an order under section 8 or 9, as the case may be.

Appeal.

(3) If the person on whom the statement was served considers the amount of the expenses to be excessive, he may, within seven days after the statement has been served on him, appeal to the council of the municipality and the council may confirm the statement or vary it in any way it deems proper.

Refusal or
failure to
pay.

(4) If the occupant or owner, as the case may be, refuses or neglects to pay the amount set out in the statement, or determined on appeal to be payable, within 15 days after the request for payment or in the event of appeal, the disposition of the appeal, the inspector shall present the statement to the council and the council, if the statement is proper, shall allow it and order it to be paid out of the general funds of the municipality.

Collection.

(5) The council shall cause every amount so paid out to be placed on the collector's roll against the land concerned and it shall be collected in the same manner as taxes under *The Assessment Act*. 1950, c. 88, s. 11.

Rev. Stat.,
c. 24.

Subdivided
areas.

12. Notwithstanding any other provision of this Act, the council of any city, town, village or township after publication of notice thereof in a newspaper having general circulation in the municipality may direct any of its inspectors to cause the noxious weeds or weed seeds on any subdivided portions of the municipality to be destroyed in such manner as he may deem proper, and the inspector shall report to the clerk of the municipality the amount of the expenses incurred by him in the discharge of his duties under this section with respect to each parcel of land concerned and the clerk shall place on the collector's roll of the municipality the amounts so expended against the respective parcels concerned and such amounts shall be collected in the same manner as taxes under *The Assessment Act* subject to an appeal to the court of revision of the municipality at any time during the year in which such amounts are placed on the collector's roll. 1950, c. 88, s. 12.

Rev. Stat.,
c. 24.

Appoint-
ment of
district
inspectors.

13.—(1) The Lieutenant-Governor in Council may for the purposes of this Act divide Ontario into districts and may appoint one or more persons as district inspectors to enforce this Act in any such district.

(2) Every district inspector within his district shall have ^{Powers.} all the powers of an inspector. 1950, c. 88, s. 13.

14.—(1) Where a district inspector finds noxious weeds ^{Notice to} or weed seeds on any land within the limits of any municipality ^{destroy.} in his district, he may deliver or send by registered post to the clerk of the municipality a notice requiring such noxious weeds or weed seeds to be destroyed before the date specified in the notice.

(2) Where any such notice is not complied with, the district ^{Failure to} inspector may cause the noxious weeds or weed seeds to be ^{comply with} destroyed in such manner as he may deem proper. ^{notice.}

(3) The expenses incurred by a district inspector under ^{Expenses} subsection 2 shall be payable on demand by the municipality ^{and charges.} concerned and shall be recoverable in any court of competent jurisdiction by the Minister in the name of His Majesty as a debt due the Crown, and in any such action the certificate of the Minister as to the amount of such expenses shall be conclusive evidence thereof. 1950, c. 88, s. 14.

15. No person shall deposit or permit to be deposited any ^{Disposal.} noxious weeds or weed seeds in any place if to do so is likely to cause the weeds or weed seeds to grow or spread. 1950, c. 88, s. 15.

16. No person shall move or cause to be moved any ^{Cleaning of} machine used for threshing, combining, seed cleaning, chop- ^{machines.} ping, baling, silo filling or other processing of farm crops without first removing all seeds and other residue therefrom if to do so is likely to cause noxious weeds or weed seeds to grow or spread. 1950, c. 88, s. 16.

17. Every person in charge of a grain elevator, grist mill, ^{Grain ele-} flour mill, seed-cleaning plant or other grain-cleaning or grain- ^{vators, etc.} grinding plant shall dispose of all refuse containing weed seeds in such manner as will prevent the weed seeds from growing or spreading. 1950, c. 88, s. 17.

18.—(1) No person shall operate a seed-cleaning plant ^{Seed-clean-} without a licence therefor from the Minister, but notwith- ^{ing plants,} standing the issue of a licence no person shall operate a seed- ^{licence.} cleaning plant when its efficiency is lower than the minimum standards prescribed in the regulations.

(2) The fee prescribed for the licence or any renewal ^{Where no} thereof shall not be payable if the seed-cleaning plant is used ^{fee payable.} only for cleaning the grain and seed of its owner. 1950, c. 88, s. 18.

Offences and penalties.

19. Every person who contravenes any of the provisions of this Act or of the regulations or who refuses or neglects to obey any lawful order of any inspector or district inspector or who interferes with or obstructs any inspector or district inspector in the performance of his duties shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$50. 1950, c. 88, s. 19.

Regulations.

20. The Lieutenant-Governor in Council may make regulations,

- (a) designating plants as noxious weeds;
 - (b) prescribing methods and procedures for the destruction of noxious weeds and weed seeds;
 - (c) prescribing methods and procedures to be taken to prevent the establishment of any noxious weed in any locality;
 - (d) regulating and governing the transportation of farm produce that is infested with noxious weeds or weed seeds;
 - (e) providing for the issue, term, transfer, renewal, suspension or cancellation of licences for seed-cleaning plants and prescribing the fees to be paid therefor or the renewal thereof;
 - (f) prescribing minimum efficiency standards for seed-cleaning plants;
 - (g) providing for the reimbursement of municipalities for any part of the moneys expended under this Act from such moneys as may be appropriated by the Legislature for the purpose;
 - (h) prescribing the forms required by this Act;
 - (i) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1950, c. 88, s. 20.
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CHAPTER 422

The Welfare Units Act

1. In this Act,

Interpretation.

- (a) "administrator" means a public welfare administrator appointed under this Act;
- (b) "Minister" means Minister of Public Welfare;
- (c) "regulations" means regulations made under this Act;
- (d) "unit" means a welfare unit established under this Act. 1948, c. 98, s. 1.

2. The council of any municipality may by by-law establish a unit which shall have the same territorial limits as the municipality, provided that no such by-law shall come into force or have any effect until it has been approved by the Lieutenant-Governor in Council. 1948, c. 98, s. 2.

Establishment of municipal units.

3.—(1) A unit may be established for the unorganized territory in any territorial district.

Establishment of district units.

(2) The council of any municipality in a territorial district may by by-law, approved by the Lieutenant-Governor in Council, become part of the district unit upon such terms and conditions, notwithstanding any Act, as may be provided in the by-law. 1948, c. 98, s. 3.

Enlargement of district units.

4. Where a municipal unit is established, the Lieutenant-Governor in Council, with the consent of the council of the municipality, may appoint an administrator to administer such public welfare matters as are designated in the regulations, and such staff as the administrator may require for the due carrying out of his duties. 1948, c. 98, s. 4.

Administrator and staff.

5.—(1) Where a municipal unit is established there shall be paid to the municipality establishing it an amount equal to 50 per cent of the cost of the administration of welfare matters under this Act.

Cost,

(2) The amounts payable under this section shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1948, c. 98, s. 5.

how payable.

Disestablish-
ment of
welfare
areas.

6.—(1) Where a municipal unit has been established, the municipality may by by-law, or the Lieutenant-Governor in Council may by order, disestablish the unit, provided that notice of intention to pass such by-law or make such order has been given to the clerk of the municipality or to the clerk of the Executive Council, as the case may be, at least three months before the by-law or order is to come into effect.

Effective
date.

(2) Any such by-law or order shall be effective on the 31st day of March next after its passing or making, as the case may be. 1948, c. 98, s. 6.

Regula-
tions.

7. The Lieutenant-Governor in Council may make regulations,

- (a) regulating and governing the establishment of units;
 - (b) designating the welfare matters that shall be administered by administrators;
 - (c) governing the qualifications of administrators and the members of their staffs;
 - (d) prescribing the powers and duties of administrators;
 - (e) prescribing the manner of computing the cost of administration of welfare matters under this Act;
 - (f) prescribing the times and manner of payment of amounts under section 5;
 - (g) prescribing the records to be kept under this Act and prescribing the returns to be made to the Minister and the form thereof;
 - (h) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1948, c. 98, s. 7.
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CHAPTER 423

The Well Drillers Act

1. In this Act,

Interpre-
tation.

- (a) "Commissioner" means Natural Gas Commissioner appointed under *The Natural Gas Conservation Act* Rev. Stat., c. 251. or a commissioner appointed under this Act;
- (b) "inspector" means inspector appointed under *The Natural Gas Conservation Act* or this Act;
- (c) "Minister" means Minister of Mines;
- (d) "owner" includes lessee;
- (e) "regulations" means regulations made under this Act;
- (f) "well" means a well bored, drilled or dug for oil, natural gas or water. R.S.O. 1937, c. 50, s. 1; 1947, c. 115, s. 1.

2.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations, Regulations.

- (a) requiring dry and abandoned wells to be plugged and protected;
- (b) prescribing the method and requirements to be observed in plugging and protecting any well;
- (c) respecting the method of boring, drilling and digging wells, and the protection of wells during boring, drilling and digging operations;
- (d) providing for the issue of licences to persons boring or drilling wells, and the renewal, suspension or cancellation thereof;
- (e) prescribing the fees to be paid for licences and renewals thereof;
- (f) requiring every person boring, drilling, digging or plugging a well to furnish reports, returns, geological and other information and specimens, and prescribing the reports, returns, information and specimens to be furnished. 1947, c. 115, s. 2.

Regulations
may be
general or
particular.

(2) Any regulation made by the Minister under subsection 1 may be general or particular in its application territorially or otherwise. R.S.O. 1937, c. 50, s. 2 (2).

Directions of
Minister as
to boring,
etc.

3. The Minister may at all times give such directions in writing as he may deem necessary respecting the boring, drilling, digging, protecting, plugging and closing of any well. R.S.O. 1937, c. 50, s. 3; 1947, c. 115, s. 3.

Licence re-
quired to
bore or
drill wells.

4.—(1) No person shall bore or drill or undertake to bore or drill a well unless he is the holder of a licence from the Minister so to do.

Penalty.

(2) Every person who violates the provisions of subsection 1 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$100. 1947, c. 115, s. 4, *amended*.

Appoint-
ment of com-
missioner
and
inspectors.

5. The Lieutenant-Governor in Council may appoint a commissioner, and an inspector or inspectors for the purpose of carrying out the provisions of this Act and any direction of the Minister made hereunder, and until any such appointment is made the Natural Gas Commissioner appointed under *The Natural Gas Conservation Act*, and the inspector appointed under that Act shall be commissioner and inspector respectively for carrying out the provisions of this Act. R.S.O. 1937, c. 50, s. 5.

Rev. Stat.,
c. 251.

Notice.

6. An abandoned well shall not be plugged until the owner or other person in possession or control thereof has given the commissioner at least two weeks notice by registered mail of the date on which the plugging is to be done, so as to enable the commissioner or inspector to be present and approve the method of plugging, and in the case of a gas well he shall, at least two weeks immediately before such date, close in the same in such a manner that no gas may escape. R.S.O. 1937, c. 50, s. 6.

Duties of
owner where
natural gas
not utilized
within two
weeks after
discovery.

7. Any person in possession or control as owner, agent, manager or otherwise of any well in which natural gas has been found, shall, unless such gas is utilized within two weeks of the discovery, confine the gas in the well until such time as the gas is utilized; but this section shall not apply to any well which, in the opinion of the Minister, is not producing gas in marketable quantities and is being operated as an oil well. R.S.O. 1937, c. 50, s. 7.

Abandon-
ment of well.

8.—(1) Whenever any well is abandoned, it shall be the duty of the owner or the person in possession or control of such well, and of every person engaged or employed in remov-

ing the casing from or in plugging the well or in any work constituting an abandonment of the well, to plug or plug and cement the well in such manner as to keep all water in its place of origin and to prevent any fresh or salt water or other injurious substances from entering any oil or gas bearing rock, either from above or below such rock as may be further provided by the regulations.

(2) Subject to section 7, every well which in the opinion of the inspector is not in operation shall be deemed to be an abandoned well within the meaning of this Act. When well shall be deemed abandoned.

(3) The owner or person in possession or control of any well may, within 10 days after receiving notice from the inspector that in his opinion the well is abandoned, appeal to the Minister against the decision of the inspector. Appeal to Minister.

(4) The owner or person appealing shall give to the inspector notice in writing of the appeal. Notice of appeal.

(5) The decision of the Minister shall be final and shall not be subject to appeal. R.S.O. 1937, c. 50, s. 8. Decision of Minister to be final.

9. Whenever the owner or person in possession of or having the control of any well in which gas has been found fails to comply with the provisions of section 8 within the time therein mentioned, the inspector shall notify in writing such person to cause such gas to be so confined; and in the case of the failure of such person to comply with the notice within 10 days of the date thereof, the inspector may enter upon the land upon which the well is situate and, either by himself, his agents or his employees, shall cause such gas to be shut in and confined in the well. R.S.O. 1937, c. 50, s. 9. Failure of owner to comply with s. 8.

10.—(1) Whenever any person notifies the inspector in writing that any property in which he is interested, situate in the vicinity of any such abandoned well, is injuriously affected by the failure to plug any such well as provided in section 8, the inspector shall examine the abandoned well and ascertain whether it has been properly plugged according to the provisions of this Act and the regulations, and in case the inspector determines that the well has not been properly plugged he shall serve a notice on the owner thereof or upon any person having the control thereof, or upon any person who was engaged or employed in the work of removing the casing from or in plugging the well, or in any work which constituted an abandonment of the well, requiring that the well be plugged within 10 days from the receipt of the notice and specifying the method to be followed in the plugging thereof, and unless within the 10 days the well is plugged Where property injuriously affected by failure to plug abandoned well.

according to the directions contained in the notice, the inspector, by himself, his agents or employees may plug the well or cause it to be plugged according to the provisions of this Act and the regulations.

Inspection of well.

(2) Where the inspector is of the opinion that the casing in any well, whether the well is abandoned or not, is admitting water to such an extent as to injure adjoining property, he may order the owner or person in possession or control to remove the pump or other obstruction therein, if any, so as to enable him to test the well, and the inspector may order the owner or other person to stop the leak if there is one, within the time named by the inspector.

Inspection of main, pipe or duct.

(3) The inspector may inspect any main, pipe or duct through which natural gas may be flowing, drawn or pumped or which is intended to be used for any such purpose, and may give notice in writing to the person or owner of the main, pipe or duct to remedy any defect found therein which permits or is likely to permit of the escape of gas.

Where default is made.

(4) In case of default in compliance with such order within 10 days after service of the same, the inspector may without further notice make such necessary alteration or repairs, or proceed to plug the well as provided in subsection 1.

Expenses, how recovered.

(5) The expenses occasioned by or incidental to such examination and plugging may be recovered in the manner provided by section 11.

Appeal from order to Minister.

(6) The owner or person in possession or control of a well, gas main, pipe or duct, may, before the expiry of the time fixed by the inspector, appeal from the order of the inspector as provided in subsection 3 of section 8, and the decision of the Minister shall be final and shall not be subject to appeal. R.S.O. 1937, c. 50, s. 10.

Expenses of examination and repair, how paid.

11. The expenses incidental to or occasioned by the examination and repair of natural gas lines or plugging of any abandoned well, or by the confining or shutting in of the gas from any well by the inspector under this Act, shall be paid to the inspector within 10 days after notice in writing of the completion of the work and the amount of such expense has been given to the owner or other person having control of any such well, and upon failure to pay the same within such time the inspector shall give written notice of such failure to the clerk of the municipality in which such well is situate or such defect exists and of the amount payable, and the council of the municipality shall thereupon pay to the inspector such expenses and the same shall be added to the taxes upon any property of the owner of the well whether the well is situate

on such property or not, unless the mineral rights in the land upon which the well is situate have been severed or reserved from such land, in which case such expenses shall be added to any taxes chargeable against the reserved mineral rights in the land upon which the well is situate or against any other property of the owner of such reserved mineral rights, and such expenses shall be entered on the collector's roll and be levied and collected in the same manner as other taxes, provided that where the municipality has paid or become liable for the expense of plugging an abandoned well, the corporation by its officers, servants or workmen may take possession of and remove and sell by public auction or private sale all casing, tubing, pumps and other equipment recovered from or connected with the well, but any surplus proceeds of the sale over and above such expenses and costs of sale shall be repaid to the owner. R.S.O. 1937, c. 50, s. 11.

12.—(1) The inspector may by notice in writing delivered to any person who has charge or control of the removal of the casing or plugging or abandonment of any well, or who was engaged or employed in removing the casing from or in plugging any such well or in any work constituting an abandonment of the well, require such person within 10 days from the receipt of the notice to furnish a statutory declaration respecting the abandoned well to the inspector.

Inspector may require statutory declaration to be furnished.

(2) Such person shall within the 10 days furnish such declaration to the inspector either by delivering it into his hands or by mailing by registered post to his address, and the declaration shall identify the well and shall set out in detail the precise manner of and the materials and tools used in plugging it. R.S.O. 1937, c. 50, s. 12.

Declaration, what to contain.

13. Where the inspector finds that a line of pipe conveying gas from one locality to another is constructed or laid down in such a manner, or is so out of repair or otherwise defective, as to permit or be likely to permit of the escape of gas in considerable quantities, he may give to the owner or person in control of the line of pipe notice in writing to make the alteration or repairs prescribed in the notice within a stated time, and upon default in compliance with the terms of the notice, the Lieutenant-Governor in Council upon the recommendation of the Minister may suspend or revoke and annul any charter of incorporation or other authority under which the business of conveying gas in the line of pipe is carried on. R.S.O. 1937, c. 50, s. 13.

Notice to owner where pipe defective.

14.—(1) The inspector shall have authority to engage such agents or employees as he may deem necessary from time to time to carry out the requirements of this Act, and

Right of inspector to engage agents and employees.

shall also be empowered from time to time and at all times by himself, his servants or employees to enter upon any land or property upon which any wells are being or have been drilled and to make such examinations, inspections, repairs and inquiries as may be necessary for carrying into effect the provisions of this Act. R.S.O. 1937, c. 50, s. 14 (1); 1947, c. 115, s. 5.

No action to lie against commissioner or inspector.

(2) No action or other proceedings shall lie against any such commissioner or inspector, his agents or employees for any matter or thing done by them under this Act. R.S.O. 1937, c. 50, s. 14 (2).

Liability of persons for contravention of provisions of certain sections.

15.—(1) Every person who contravenes any of the provisions of sections 7, 8 and 13 or of any of the regulations or who neglects or refuses to carry out any order or direction lawfully given or made under the authority of this Act or the regulations, in addition to any costs and expenses to which he may be liable under section 11, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$100.

Liability of defendant.

(2) The prosecution of any person under subsection 1 shall not affect the liability of the defendant in any action for damages or otherwise for injuries arising out of any such offence. R.S.O. 1937, c. 50, s. 15.

Where sections 6 to 13 not to apply.

16. Sections 6 to 13 shall not apply to wells drilled for fresh water for domestic or farm purposes or which do not penetrate the solid rock. R.S.O. 1937, c. 50, s. 16.

CHAPTER 424

The Wharfs and Harbours Act

1. This Act shall apply to every company heretofore or hereafter incorporated for constructing a pier or wharf, for dredging, deepening or making a harbour, or for the erection of a dry dock and marine railway connected therewith. R.S.O. 1937, c. 255, s. 1. Application of Act.

2.—(1) The company may detain any goods, wares or merchandise, or any vessel, boat or craft until the tolls or charges thereon have been paid, and may sell any vessel, boat or craft for the charges for repairs thereof when such charges have remained unpaid for 30 days. Company's right of detention and sale.

(2) Where the charges for wharfage or storage dues on goods, wares or merchandise have remained unpaid for 30 days, the company, after giving 10 days notice of sale, may, by public auction, sell such goods, wares or merchandise or such part thereof as may be necessary to pay such charges or dues. Sale of goods for dues.

(3) The company shall pay the surplus, if any, or deliver such of the goods as remain unsold to the person entitled thereto. R.S.O. 1937, c. 255, s. 2. Return of surplus to owner.

3. The corporation of the municipality in which any such work is to be constructed may subscribe for, acquire, hold and transfer shares in the company or may direct the head of the municipality to subscribe for such shares in the name of the corporation and to act for the corporation in all matters relating to such shares and the exercise of the rights of the corporation as a shareholder, and the head of the municipality, whether otherwise qualified or not, may vote and act in respect of such shares, subject to any rules and orders in relation to his authority made by the council, and according to his discretion in cases not provided for by the council. R.S.O. 1937, c. 255, s. 3. Power of municipal corporation to hold shares and to vote.

4. A company may sell to the corporation of any municipality in which the work is situate, and any such corporation may purchase the undertaking and assets of the company at the value agreed on between them, and the corporation shall in all respects thereafter stand in the place of the company and possess all its powers and authority. R.S.O. 1937, c. 255, s. 4. Power of municipal corporation to purchase undertaking and assets.

CHAPTER 425

The White Cane Act

1. In this Act,Interpre-
tation.

(a) "blind person" means a person,

- (i) who is registered as blind with The Canadian National Institute for the Blind,
- (ii) who is in receipt of a pension on account of blindness under *The Old Age Pensions Act* and the *Old Age Pensions Act* (Canada), or Rev. Stat., c. 258.
R.S.C. 1927, c. 156.
- (iii) who, having been in receipt of a pension on account of blindness under the said Acts, is in receipt of an old age pension under the said Acts and is still blind within the meaning of the said Acts and regulations made thereunder;

(b) "white cane" means a cane or walking-stick the major portion of which is white. 1947, c. 116, s. 1.

2. No person other than a blind person shall carry or use a white cane in any public thoroughfare, public conveyance or public place. 1947, c. 116, s. 2. Restriction on use of white cane.

3.—(1) This Act shall not apply to any person who is not a resident of Ontario. Application of Act.

(2) Where in any prosecution the person charged with a violation of this Act alleges that he is not a resident of Ontario, the burden of proving the allegation shall be upon such person. Burden of proof.

4. Every person who violates the provisions of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25. 1947, c. 116, s. 4. Penalty.

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CHAPTER 426

The Wills Act

1. In this Act,

Interpre-
tation.

- (a) "land" includes messuages, and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be paid out in the purchase of land, and any share of the same hereditaments and properties, or any of them, and any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency;
- (b) "mortgage" includes any lien for unpaid purchase money, and any charge, encumbrance, or obligation of any nature whatever upon any land or tenements of a testator or intestate, and "mortgagee" has a meaning corresponding with that of mortgage;
- (c) "personal estate" includes leasehold estates and other chattels real, and also money, shares of government and other funds, securities for money (not being real estate), debts, choses in action, rights, credits, goods, and all other property, except real estate, which by law devolves upon the executor or administrator, and any share or interest therein;
- (d) "real estate" includes messuages, land, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal, incorporeal or personal, and any undivided share thereof, and any estate, right, or interest (other than a chattel interest) therein;
- (e) "will" includes a testament, and a codicil, and an appointment by will, or by writing in the nature of a will in exercise of a power, and also a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of *The Infants Act*,^{Rev. Stat., c. 180.} and any other testamentary disposition. R.S.O. 1937, c. 164, s. 1.

WILLS BEFORE 1ST JANUARY, 1874

When real estate subsequently acquired may pass by the will.

2. Where a will made before, and not re-executed, republished or revived after the 1st day of January, 1874, by any person dying after the 6th day of March, 1834, contains a devise in any form of words of all such real estate as the testator dies seised or possessed of, or of any part or proportion thereof, such will shall be valid and effectual to pass any land acquired by the devisor, after the making of such will, in the same manner as if the title thereto had been acquired before the making thereof. R.S.O. 1937, c. 164, s. 2.

What estate deemed to pass by devise.

3. Where land is devised in any such will it shall be considered that the devisor intended to devise all such estate as he was seised of in the same land, whether in fee simple or otherwise, unless it appears upon the face of such will that he intended to devise only an estate for life, or other estate less than he was seised of at the time of making the will containing such devise. R.S.O. 1937, c. 164, s. 3.

Witness need not subscribe in the presence of the testator.

4. Any will affecting land executed after the 6th day of March, 1834, and before the 1st day of January, 1874, in the presence of and attested by two or more witnesses shall have the same validity and effect as if executed in the presence of and attested by three witnesses; and it shall be sufficient if the witnesses subscribed their names in the presence of each other, although their names were not subscribed in the presence of the testator. R.S.O. 1937, c. 164, s. 4.

Will by married woman between 4th May, 1859, and 1st January, 1874.

5. After the 4th day of May, 1859, and before the 1st day of January, 1874, every married woman might, by devise or bequest executed in the presence of two or more witnesses, neither of whom was her husband, make any devise or bequest of her separate property, real or personal, or of any rights therein, whether such property was acquired before or after marriage, to or among her child or children issue of any marriage, and failing there being any issue, then to her husband, or as she might see fit, in the same manner as if she were sole and unmarried. R.S.O. 1937, c. 164, s. 5.

WILLS AFTER 1ST JANUARY, 1874

Operation of succeeding sections.

6. Unless herein otherwise expressly provided, the subsequent sections of this Act shall not extend to any will made before the 1st day of January, 1874; but every will re-executed or republished, or revived by any codicil, shall for the purposes of those sections, be deemed to have been made at the time at which the will was so re-executed, republished or revived. R.S.O. 1937, c. 164, s. 6.

7. Sections 21, 22, 25 and 26 shall not apply to the will of any person who died before the 1st day of January, 1869, but shall apply to the will of every person who died since the 31st day of December, 1868. R.S.O. 1937, c. 164, s. 7.

Application
of sections
21, 22, 25
and 26.

8. Subject to *The Devolution of Estates Act* and *The Accumulations Act*, every person may devise, bequeath, or dispose of by will, executed in manner hereinafter mentioned, all real estate and personal estate to which he may be entitled, at the time of his death, and which, if not so devised, bequeathed, or disposed of, would devolve upon his heirs or upon his executor or administrator, and the power hereby given shall extend to estates *pur autre vie*, whether there is or is not any special occupant thereof, and whether the same are corporeal or incorporeal hereditaments, and also to all contingent, executory, or other future interests in any real estate or personal estate, whether the testator is or is not ascertained as the person, or one of the persons, in whom the same may become vested, and whether he is entitled thereto under the instrument by which the same were created, or under any disposition thereof by deed or will, and also to all rights of entry for conditions broken and other rights of entry, and also to such of the same estates, interests and rights respectively, and other real estate and personal estate, as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will. R.S.O. 1937, c. 164, s. 8.

Power to
dispose of all
property.
Rev. Stat.,
cc. 103, 4.

9. A widow may, in like manner, bequeath the crop of her ground as well of her dower as of other her real estate. R.S.O. 1937, c. 164, s. 9.

Widow's
right to
dispose of
crop.

10. Save as provided by section 13, no will made by any person under the age of 21 years shall be valid. R.S.O. 1937, c. 164, s. 10.

Wills by
infants
invalid.

11.—(1) No will shall be valid unless it is in writing and executed in the manner hereinafter mentioned; that is to say, it shall be signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator; but no form of attestation shall be necessary.

Execution.

(2) Every will, so far only as regards the position of the signature of the testator, or of the person so signing for him, shall be valid within the meaning of this Act if the signature

Position of
signature.

is so placed, at, or after, or following or under, or beside, or opposite to the end of the will, that it is apparent on the face of the will that the testator intended to give effect by such signature to the writing signed as his will, and no such will shall be affected by the circumstance that the signature does not follow or is not immediately after the foot or end of the will, or by the circumstance that a blank space intervenes between the concluding word of the will and the signature, or by the circumstance that the signature is placed among the words of the *testimonium* clause, or of the clause of attestation, or follows or is after or under the clause of attestation either with or without a blank space intervening, or follows, or is after, or under, or beside the names or one of the names of the subscribing witnesses, or by the circumstance that the signature is on a side, or page, or other portion of the paper or papers containing the will, whereon no clause or paragraph or disposing part of the will is written above the signature, or by the circumstance that there appears to be sufficient space on or at the bottom of the preceding side or page or other portion of the same paper on which the will is written to contain the signature, and the enumeration of the above circumstances shall not restrict the generality of the above enactment; but no signature shall be operative to give effect to any disposition, or direction which is underneath, or which follows it, nor shall it give effect to any disposition or direction inserted after the signature was made. R.S.O. 1937, c. 164, s. 11.

Exercise of
appoint-
ments by
will.

12. No appointment made by will, in exercise of any power, shall be valid unless the appointment is executed in the manner hereinbefore required, and every will executed in the manner hereinbefore required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it has been expressly required that a will made in exercise of such power shall be executed with some additional or other form of execution or solemnity. R.S.O. 1937, c. 164, s. 12.

Will of
member of
the forces.

13.—(1) The will of any member of the forces, or of any mariner or seaman when at sea or in course of a voyage, disposing of real or personal property, or both, may be made by a writing signed by him without any further formality or any requirement as to the presence of or attestation or signature by any witness.

Age of
testator.

(2) The fact that the member of the forces or the mariner or seaman is under the age of 21 years at the time he makes his will shall not invalidate it.

(3) In this section, "member of the forces" means a member of the naval, military or air forces of Canada who, having been placed on active service or called out for training, service or duty, is serving in any of such forces. 1942, c. 40, s. 1.

Interpretation.

14. Every will executed in manner hereinbefore required shall be valid without any other publication thereof. R.S.O. 1937, c. 164, s. 14.

Publication unnecessary.

15. If any person who attests the execution of a will is, at the time of the execution thereof, or becomes at any time afterwards, incompetent to be admitted as a witness to prove the execution thereof, such will shall not on that account be invalid. R.S.O. 1937, c. 164, s. 15.

Effect of incompetency of witness.

16. If any person attests the execution of any will to whom, or to whose wife or husband, any beneficial devise, legacy, estate, interest, gift, or appointment of or affecting any real estate or personal estate, other than and except charges and directions for the payment of any debt, is thereby given or made, such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or such wife or husband, be utterly null and void, and the person so attesting shall be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will. R.S.O. 1937, c. 164, s. 16.

Gifts, etc., to witness invalid.

17. In case, by any will, any real estate or personal estate is charged with any debt, and any creditor, or the wife or husband of any creditor, whose debt is so charged attests the execution of such will, the creditor, notwithstanding such charge, shall be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof. R.S.O. 1937, c. 164, s. 17.

Creditor as witness.

18. No person shall, on account of his being an executor of a will, be incompetent to be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof. R.S.O. 1937, c. 164, s. 18.

Executor as witness.

19.—(1) Every will made out of Ontario by a British subject, whatever may be his domicile at the time of making the same or at the time of his death, shall, as regards personal estate, be held to be well executed for the purpose of being admitted to probate in Ontario, if the same was made according to the forms required either by the law of the place where

Execution out of Ontario by a British subject.

the same was made, or by the law of the place where such person was domiciled when the same was made, or by the law then in force in that part of His Majesty's dominions where he had his domicile of origin.

Execution by
British sub-
ject in
Ontario.

(2) Every will made within Ontario by a British subject whatever may be his domicile at the time of making the same or at the time of his death, shall, as regards personal estate, be held to be well executed and shall be admitted to probate in Ontario if the same was made and executed according to the forms required by the law of Ontario.

Change of
domicile.

(3) No will shall be held to be revoked or to have become invalid, nor shall the construction thereof be altered, by reason of any subsequent change of domicile of the person making the will.

Saving.

(4) Nothing in this section shall invalidate any will, as regards personal estate, which would have been valid if this section had not been passed, except as such will may be revoked or altered by any subsequent will made valid by this section.

Application.

(5) This section, except subsection 2, shall extend only to wills made by persons dying after the 17th day of March, 1902, and subsection 2 shall extend only to wills made by persons dying after the 19th day of March, 1910. R.S.O. 1937, c. 164, s. 19.

Revocation
by marriage.

20. Every will made by any person dying on or after the 13th day of April, 1897, shall be revoked by the marriage of the testator, except,

- (a) where it is declared in the will that the same is made in contemplation of such marriage;
- (b) where the wife or husband of the testator elects to take under the will, by an instrument in writing signed by the wife or husband and filed within one year after the testator's death in the office of the Registrar of the Supreme Court;
- (c) where the will is made in the exercise of a power of appointment and the real estate or personal estate thereby appointed would not in default of such appointment pass to the testator's heirs, executor or administrator, or the person entitled as the testator's next of kin under *The Devolution of Estates Act*. R.S.O. 1937, c. 164, s. 20 (1).

Rev. Stat.,
c. 103.

Change in
circum-
stances.

21. No will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances. R.S.O. 1937, c. 164, s. 21.

22. No will, or any part thereof, shall be revoked otherwise than as aforesaid provided by section 20, or by another will executed in the manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction with the intention of revoking the same. R.S.O. 1937, c. 164, s. 22. Revocation.

23. No obliteration, interlineation or other alteration made in any will after the execution thereof shall be valid or have any effect, except so far as the words or effect of the will before such alteration are not apparent, unless such alteration is executed in like manner as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the testator and the subscription of the witnesses are made in the margin or in some other part of the will opposite or near to such alteration, or at the foot or end of, or opposite to, a memorandum referring to such alteration, and written at the end or in some other part of the will. R.S.O. 1937, c. 164, s. 23. Obliterations, interlineations, etc.

24. No will, or any part thereof, which has been in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in the manner hereinbefore required, and showing an intention to revive the same, and where any will which has been partly revoked, and afterwards wholly revoked, is revived such revival shall not extend to so much thereof as was revoked before the revocation of the whole thereof, unless an intention to the contrary is shown. R.S.O. 1937, c. 164, s. 24. Revival.

25. No conveyance or other act made or done subsequently to the execution of a will, of or relating to any real estate or personal estate therein comprised, except an act by which such will is revoked as aforesaid, shall prevent the operation of the will with respect to such estate, or interest in such real estate or personal estate, as the testator had power to dispose of by will at the time of his death. R.S.O. 1937, c. 164, s. 25. Operation of the will as to any interest left in testator.

26.—(1) Every will shall be construed, with reference to the real estate and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will. Will to speak from death.

Application
of section.

(2) This section shall apply to the will of a married woman made during coverture, whether she is or is not possessed of or entitled to any separate property at the time of making it, and such will shall not require to be re-executed or republished after the death of her husband. R.S.O. 1937, c. 164, s. 26.

Disposition
of lapsed
devise.

27. Unless a contrary intention appears by the will such real estate as is comprised or intended to be comprised in any devise in such will which fails or becomes void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise, if any, contained in such will. R.S.O. 1937, c. 164, s. 27.

Disposition
of leaseholds
under a
general de-
vise of real
estate.

28. A devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, and any other general devise which would describe a leasehold estate, if the testator had no freehold estate which could be described by it, shall be construed to include his leasehold estates, or any of them, to which such description will extend as well as freehold estates, unless a contrary intention appears by the will. R.S.O. 1937, c. 164, s. 28.

Disposition
of property
over which
testator has
a general
power of
appointment
under gen-
eral devise
or bequest.

29. A general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate or any real estate to which such description will extend, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will; and in like manner a bequest of the personal estate of the testator, or any bequest of personal estate described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description will extend, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will. R.S.O. 1937, c. 164, s. 29.

Estate pass-
ing under
devise with-
out words of
limitation.

Rev. Stat.,
c. 103.

30. Where any real estate is devised to any person without any words of limitation such devise shall, subject to *The Devolution of Estates Act*, be construed to pass the fee simple, or other the whole estate or interest, which the testator had power to dispose of by will, unless a contrary intention appears by the will. R.S.O. 1937, c. 164, s. 30.

31. Where any real estate is devised by any testator, dying on or after the 5th day of March, 1880, to the heir or heirs of such testator, or of any other person, and no contrary or other intention is signified by the will, the words "heir" or "heirs" shall be construed to mean the person or persons to whom the real estate of the testator, or of such other person as the case may be, would descend under the law of Ontario in case of an intestacy. R.S.O. 1937, c. 164, s. 31.

Meaning of "heir" in a devise of real estate.

32. In any devise or bequest of real estate or personal estate, the words "die without issue", or "die without leaving issue", or "have no issue", or any other words which import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention appears by the will by reason of such person having a prior estate tail, or of a preceding gift, being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise; but this Act shall not extend to cases where such words import if no issue described in a preceding gift be born, or if there be no issue who live to attain the age or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue. R.S.O. 1937, c. 164, s. 32.

Import of words "die without issue", or to that effect.

33. Where any real estate is devised to a trustee or executor such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a definite term of years absolute or determinable, or an estate of freehold is thereby given to him expressly or by implication. R.S.O. 1937, c. 164, s. 33.

Estate passing under devise to trustee or executor.

34. Where any real estate is devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, is not given to any person for life, or such beneficial interest is given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall, subject to *The Devolution of Estates Act*, be construed to vest in such trustee the fee simple or other the whole legal estate which the testator had power to dispose of by will in such real estate, and not an estate determinable when the purposes of the trust are satisfied. R.S.O. 1937, c. 164, s. 34.

When devise to a trustee shall pass the whole estate beyond what is requisite for the trust.

Rev. Stat., c. 103.

When devise
in tail not
to lapse.

35. Where any person to whom any real estate is devised for an estate tail, or an estate in *quasi* entail, dies in the life-time of the testator, leaving issue who would be inheritable under such entail, and any such issue are living at the time of the death of the testator, such devise shall not lapse but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will. R.S.O. 1937, c. 164, s. 35.

When gifts
to issue or
certain other
relatives
not to lapse
by reason of
death in life-
time of
testator.

36.—(1) Where any person, being a child or other issue or the brother or sister of the testator to whom any real estate or personal estate is devised or bequeathed, for any estate or interest not determinable at or before the death of such person, dies in the life-time of the testator either before or after the making of the will, leaving issue, and any of the issue of such person are living at the time of the death of the testator, such devise or bequest shall not lapse but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will.

Application
of section
to bequest
to class.

(2) This section shall apply to a devise or a bequest to children or other issue or to brothers or sisters as a class. R.S.O. 1937, c. 164, s. 36.

Primary
liability
of real estate
to satisfy
specific
charge.

37.—(1) Where any person has died since the 31st day of December, 1865, or hereafter dies, seised of or entitled to any estate or interest in any real estate, which, at the time of his death, was or is charged with the payment of any sum of money by way of mortgage, and such person has not by his will or deed or other document, signified any contrary or other intention, the heir or devisee to whom such real estate descends or is devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate, or any other real estate of such person, but the real estate so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage debts with which the same is charged, every part thereof according to its value bearing a proportionate part of the mortgage debts charged on the whole thereof.

Consequence
of general
direction for
payment of
debts out of
personalty
or residue.

(2) In the construction of a will to which this section relates, a general direction that the debts, or that all the debts, of the testator shall be paid out of his personal estate, or a charge or direction for the payment of debts upon or out of residuary real estate and personal estate or residuary real estate shall not be deemed to be a declaration of an intention contrary to or other than the rule in subsection 1, unless such contrary or other intention is further declared by words expressly or by necessary implication referring to all or some

of the testator's debts charged by way of mortgage on any part of his real estate.

(3) Nothing herein shall affect or diminish any right of the mortgagee to obtain full payment or satisfaction of his mortgage debt, either out of the personal estate of the person so dying or otherwise, and nothing herein shall affect the rights of any person claiming under any will, deed or document made before the 1st day of January, 1874. R.S.O. 1937, c. 164, s. 37.

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CHAPTER 427

The Wolf and Bear Bounty Act

1. In this Act,Interpre-
tation.

- (a) "Minister" means Minister of Lands and Forests;
- (b) "provisional judicial district" includes the provisional county of Haliburton;
- (c) "regulations" means regulations made under this Act. 1946, c. 110, s. 1; 1947, c. 118, s. 1 (2).

WOLF BOUNTIES

2. Where in any county a person has killed a timber or brush wolf and within a period of six months after the killing produces the whole skin before the treasurer of the county, a magistrate or one of the persons designated by the Minister as wolf bounty officers, together with an affidavit in the prescribed form stating the place where and the date when the wolf was killed and that the wolf was not kept in captivity while it was under the age of three months, the treasurer, magistrate or person aforesaid shall give to the person producing the skin, a certificate in the prescribed form. 1947, c. 118, s. 2.

Proof of
killing by
applicant.

3. Upon the delivery of a certificate issued under section 2 by the person named therein to the treasurer of the county, together with the whole skin of the wolf, within a period of one month from the date of the certificate, the treasurer shall pay, or cause to be paid, to such person the sum of \$25 as a bounty on either a timber or a brush wolf which is three months of age or over, and \$15 as a bounty on either a timber or a brush wolf under the age of three months. 1946, c. 110, s. 3; 1949, c. 113, s. 1.

Bounties
payable
by county.

4. Upon the delivery to the Minister by the treasurer of a county of a certificate issued under section 2 completed to the satisfaction of the Minister, together with the whole skin of the wolf, the corporation of the county shall be entitled to receive 40 per cent of the sum so paid, out of such moneys as may be appropriated by the Legislature for the payment of wolf bounty. 1946, c. 110, s. 4.

Repayment
to county
by Province.

Proof of
killing in
provisional
judicial
district.

5.—(1) Where a timber or brush wolf has been killed in a provisional judicial district, the skin may be produced before a magistrate, the clerk of the district court or one of the persons designated by the Minister as wolf bounty officers. 1947, c. 118, s. 3.

Certificate.

(2) Upon the like proof as required in section 2, the person before whom the skin is produced may give the certificate mentioned in section 2, provided such skin is produced within a period of 10 months after the killing, and upon the delivery of the certificate, duly completed, to the Minister together with the whole skin, the person named in the certificate shall be entitled to receive out of such moneys as may be appropriated by the Legislature for the payment of wolf bounty the sum prescribed in section 3. 1946, c. 110, s. 5 (2).

Provincial
parks.

6. Where a claim is made for the payment of bounty for any wolf killed in a provincial park, the affidavit may be taken and the certificate may be given by the superintendent of such park, or before any of the persons named in subsection 1 of section 5. 1946, c. 110, s. 6.

Disposal
of skin.

7. Before payment of the bounty to the corporation of the county or directly to the person killing the wolf, the whole skin shall be delivered to the Minister or to such person or persons as the Minister may designate for the purpose, and shall become the property of the Crown, and may be disposed of in such manner as may be prescribed by the regulations. 1946, c. 110, s. 7.

Penalty for
unlawful
presentation
for bounty.

8.—(1) Every person who presents or sends to the Minister for bounty, or who is a party to presenting or sending to the Minister for bounty, any wolf skin upon which the bounty has been paid, or the skin of any wolf taken or killed outside of Ontario, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$200 in respect of every wolf skin so presented or sent, and in default of payment thereof shall be imprisoned for a term of not more than six months unless the penalty is sooner paid. 1946, c. 110, ss. 8 (1), 19.

Forfeiture
of skin.

(2) Upon conviction for an offence under subsection 1, every wolf skin in respect of which the offence was committed shall be forfeited to and become the property of the Crown in right of Ontario and may be disposed of in such manner as the Minister may direct. 1946, c. 110, s. 8 (2); 1947, c. 118, s. 4.

BEAR BOUNTIES

Application.

9.—(1) Sections 9 to 12 shall apply only to such geographical areas of Ontario as are prescribed by the regulations.

(2) No bounty shall be paid on bears killed in areas other than those prescribed in accordance with subsection 1 nor on bears killed in provincial parks, Indian reserves or Crown game preserves. 1946, c. 110, s. 9.

Where no bounty.

10.—(1) Subject to fulfilling the conditions prescribed in sections 9 to 12, where a person has killed a bear in any township of which not less than 25 per cent of the total area is devoted to agriculture, such person shall be entitled to a bear bounty. 1946, c. 110, s. 10 (1).

Must be agricultural area.

(2) Where in any such township a person kills a bear and,

Proof required.

(a) within a period of three weeks after the killing produces the whole skin thereof before a magistrate, justice of the peace, game and fisheries officer or one of the persons designated by the Minister as bear bounty officers;

(b) produces to the officer an affidavit in the prescribed form stating,

(i) the place where the bear was killed,

(ii) the date when the bear was killed, and

(iii) that the bear was not kept in captivity previous to the date on which it was killed;

(c) proves to the satisfaction of the officer that the bear was killed between April 15th and November 30th in defence or preservation of live stock or property; and

(d) proves to the satisfaction of the officer that he was at the time of the killing a *bona fide* resident of the township in which the bear was killed, and that he was not at such time a tourist-outfitter or licensed guide, rendering service in such capacity to non-residents of the township,

the officer before whom the skin is produced shall give to the person producing it, a certificate in the prescribed form. 1946, c. 110, s. 10 (2); 1947, c. 118, s. 5.

(3) Upon the issue of the certificate, the officer before whom the whole skin is produced shall stamp or mark the skin in the manner prescribed by the regulations and shall then return the skin to the party who killed the bear and it shall become his property. 1946, c. 110, s. 10 (3).

Marking of skin.

11. Upon the delivery to the Minister of an affidavit and certificate mentioned in section 10 completed to the satisfaction of the Minister, the person named shall be entitled to

Amount of bounty.

receive out of such moneys as may be appropriated therefor by the Legislature the sum of \$10 as a bounty on a bear which is 12 months of age or over, and \$5 as a bounty on a bear under the age of 12 months. 1946, c. 110, s. 11.

Penalty
for unlawful
presentation
for bounty.

12.—(1) Every person who presents for bounty, or who is a party to presenting for bounty, any bear skin upon which the bounty has been paid, or the skin of any bear taken or killed outside the area to which sections 9 to 12 apply, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$200 in respect of every bear skin so presented, and in default of payment thereof shall be imprisoned for a term of not more than six months unless the penalty is sooner paid. 1946, c. 110, ss. 12 (1), 19.

Forfeiture
of skin.

(2) Upon conviction for an offence under subsection 1, every bear skin in respect of which the offence was committed shall be forfeited to and become the property of the Crown in right of Ontario and may be sold by the Minister. 1946, c. 110, s. 12 (2).

GENERAL PROVISIONS

Payment
of claims.

13. Where the Minister is satisfied that the person who killed any wolf or bear or that the corporation of the county which has paid a wolf bounty is justly entitled to receive the bounty or to be reimbursed as provided in section 4, the Minister may make a requisition on the Treasurer of Ontario accordingly, and a cheque shall be issued in payment thereof, notwithstanding any defect in the affidavit or certificate, or any doubt as to the authority of the officer taking such affidavit or giving such certificate, and in such case the provincial Auditor shall forthwith, without further audit or examination, countersign the cheque. 1946, c. 110, s. 13.

Entitlement
determined
by Minister.

14. The decision of the Minister on all questions of the entitlement to payment of a bounty and as to the age and classification of animals shall be final. 1946, c. 110, s. 14.

Taking
affidavits.

15. Any person authorized to give a certificate under this Act may take any affidavit required to be taken by any applicant for the purpose of obtaining such certificate. 1946, c. 110, s. 15.

Wolves and
bears kept
in captivity.

16.—(1) Every person in possession or control of any live wolf or bear shall within 10 days after coming into such possession or control apply in writing to the Minister for a permit to keep the same in captivity.

(2) The Minister may issue permits under this section in such form and subject to such terms and conditions as he may in his discretion deem proper. Issuance of permits.

(3) The Minister may refuse to issue a permit under this section and may cancel any such permit at any time when it is shown to his satisfaction that the person to whom the permit was issued has failed to comply with the terms and conditions thereof. Refusal and cancellation of permits.

(4) Every person who fails to comply with subsection 1 or who keeps any live wolf or bear in captivity after a permit therefor has been refused or cancelled shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$100, and in default of payment of the penalty shall be imprisoned for a term of not more than three months unless the penalty is sooner paid. Offences and penalties.

(5) Any live wolf or bear kept in captivity contrary to this section and any cage, pen, crate, shelter or other enclosure used in connection therewith may be seized and upon conviction of the person in possession or control thereof shall be forfeited to and become the property of the Crown in right of Ontario and may be disposed of in such manner as the Minister may direct. Seizure of animals, cages, etc.

(6) This section shall not apply where any live wolf or bear is kept in captivity in any public zoo or for scientific or educational purposes in any public institution. 1949, c. 113, s. 2. Application of section.

17. Where in any action, prosecution or other proceeding under this Act, a person claims that bounty is payable in respect of a wolf or bear skin, and that such bounty has not been previously paid, the burden of proof shall be upon such person. 1946, c. 110, s. 17. Burden of proof.

18. The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) prescribing the form and contents of certificates and affidavits required for the purposes of this Act;
- (b) prescribing the fees payable for any permit issued under this Act;
- (c) prescribing the manner of marking or stamping any skin on which a bounty is paid;
- (d) defining the geographical areas to which sections 9 to 12 shall apply;

- (e) providing for the disposal of wolf skins on which bounty has been paid and wolf or bear skins forfeited to the Crown;
 - (f) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1946, c. 110, s. 18; 1949, c. 113, s. 3.
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CHAPTER 428

The Woodmen's Employment Act

1. In this Act,

Interpre-
tation.

- (a) "Crown timber" means trees standing, growing or being on ungranted public lands or on other lands where the timber thereon or any portion thereof is the property of the Crown;
- (b) "Department" means Department of Lands and Forests;
- (c) "employees" means persons in the employ of an operator or in the employ of any person carrying on work under a contract, sub-contract or other arrangement or agreement authorized by or relating back to the licence, permit, contract, agreement or other instrument granted or made by the Crown under which the operator enjoys the right to cut and remove Crown timber;
- (d) "Minister" means Minister of Lands and Forests;
- (e) "operator" means any person holding a licence, permit, contract, agreement or other instrument granted or made by the Crown under which exists the right to cut and remove Crown timber. R.S.O. 1937, c. 202, s. 1.

2.—(1) The Lieutenant-Governor in Council, upon the recommendation of the Minister, may appoint an inspector <sup>Appoint-
ment of
inspector.</sup> under this Act.

(2) Such office may be assigned to some person performing other duties in the Department unless the duties are so onerous <sup>Who may be
appointed.</sup> as to require a separate appointment.

(3) The Minister or the Deputy Minister of Lands and Forests may appoint any Crown timber agent or other officer of the public service of Ontario to be an assistant inspector, and such assistant inspector shall have the same duties and powers as the inspector and shall act for such period of time as may be authorized by the Minister or Deputy Minister. R.S.O. 1937, c. 202, s. 2.

Duties of
inspector,
investiga-
tions;

3. It shall be the duty of the inspector to investigate from time to time as may be directed by the Minister or the Deputy Minister of Lands and Forests, the undertaking or operations of any operator or of any person carrying on work under a contract or subcontract or other arrangement or agreement authorized by or relating back to the licence, permit, contract, agreement or other instrument granted or made by the Crown under which the operator enjoys the right to cut and remove Crown timber, and such investigation shall be made with reference to,

wages and
hours of
labour;

(a) the computation of the wages or earnings of employees, the hours and times of working, and the method of paying such wages or earnings;

food
supplies;

(b) the sufficiency and wholesomeness of food supplied to employees whether such food is supplied as part of the wages or earnings of such employees or is paid for in cash by such employees, or is deducted from the wages or earnings of such employees;

charges for
supplies;

(c) the prices charged for meals, living accommodation, clothing, boots, supplies, tools, tobacco and any other article sold to, provided for or offered for sale to employees;

deductions
for services;

(d) the amount charged against, or deducted from the wages or earnings of employees for medical, dental, transportation or other services or facilities of any nature whatsoever;

assessments;

(e) the assessments, levies, fines, penalties or other deductions charged against the wages or earnings of any employee;

camp
quarters;

(f) the rooms, tents, cabins, houses, camps or other places of accommodation provided for the living or working places of employees and the sanitary conditions thereof, or of any storehouse, kitchen, dining-room or other places used for the preparation, storing and serving of food;

contracts;

(g) the details of any contract, subcontract, arrangement whether written or otherwise, the carrying out of which involves in any manner the employment of any person;

labour
conditions;

(h) the conditions under which employees labour, the hazards to which employees are subjected in the course of work, and the methods employed in carrying out timbering and lumbering operations;

- (i) such other matters respecting woodmen's employ-^{other}ment as may be directed by the Minister or the ^{matters.} Deputy Minister of Lands and Forests. 1934, c. 66, s. 4.

4. Every operator shall be and remain responsible to the Crown for all things done or required to be done in the course of carrying out the timbering or other operations authorized under the licence, permit, contract, agreement or other instrument held by such operator, notwithstanding that such operator by contract, agreement, permit or other instrument, or in any other manner, has authorized or permitted work to be undertaken or performed, or services to be supplied by contractors, subcontractors, permittees, jobbers or by any other person whatsoever. R.S.O. 1937, c. 202, s. 4. ^{Responsi-}
^{bility of}
^{operators.}

5. The inspector shall transmit to the Minister a report as soon as practicable after each investigation by him made and the Minister upon receipt of the report may make such recommendations to the operator or operators referred to therein or to the Lieutenant-Governor in Council as the Minister may deem advisable. R.S.O. 1937, c. 202, s. 5. ^{Report of}
^{inspector.}

6. The Lieutenant-Governor in Council may make regulations respecting any of the several matters made the subject of investigation under this Act, or respecting the procedure to be followed in carrying out the provisions of this Act. R.S.O. 1937, c. 202, s. 6 (1); 1946, c. 89, s. 48 (1). ^{Regulations.}

7. The inspector for the purpose of making an investigation under this Act shall have power, ^{Powers of}
^{inspector re,}

- (a) to enter upon any land and premises of any operator and to examine the interior of any room, tent, cabin, house or other place of accommodation provided for the living or working places of employees, and of any kitchen, dining-room, storeroom or other place used for the preparation, serving and storing of food; ^{entry upon}
^{lands, etc.;}
- (b) to summon any person to attend as a witness before him with or without the production of documents, payrolls, price lists, diet sheets, shanty books or other books or documents relevant to the investigation, and in the case of any person so summoned refusing to attend after payment or tender of his proper fees, application may be made in a summary way to a justice of the peace having jurisdiction in the city, town or district wherein the investigator may be sitting, for an order compelling such attendance, and such justice of the peace may make such ^{summoning}
^{of witnesses;}

order as might be made in any case wherein such justice has power to compel appearance before him in pursuance of *The Summary Convictions Act*; and

Rev. Stat.,
c. 379.

Administra-
tion of oaths.

- (c) to administer an oath to any person attending as a witness before him and to examine such person on oath or affirmation. R.S.O. 1937, c. 202, s. 7.

Power of
keeping
order during
hearing.

8. The inspector during the taking of *viva voce* evidence shall sit and conduct himself as in open court and for the purpose of preserving order during the taking of such evidence shall have all the powers of a judge of a county or district court, except the power of committing for contempt. R.S.O. 1937, c. 202, s. 8.

Witness
fees.

9. Witnesses shall be entitled to the same fees as in a division court. R.S.O. 1937, c. 202, s. 9.

Irregularity
in form
not to
invalidate.

10. No proceeding under this Act shall be deemed invalid by reason of any defect of form or technical irregularity. R.S.O. 1937, c. 202, s. 10.

CHAPTER 429

The Woodmen's Lien for Wages Act

1. In this Act,

Interpre-
tation.

- (a) "bailiff" includes a constable who under *The Division Courts Act* may execute an attachment or perform other service; Rev. Stat., c. 106.

- (b) "labour" means cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber, and includes any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith;

- (c) "logs or timber" means logs, cordwood, timber, cedar posts, telegraph poles, railroad ties, tan bark, pulpwood, shingle bolts and staves or any of them. R.S.O. 1937, c. 201, s. 2.

2. This Act shall apply only to the provisional county of Haliburton and to the provisional judicial districts. R.S.O. 1937, c. 201, s. 1. Application of Act.

3. Where in this Act any act is required to be done by, or any paper to be filed or proceedings taken in the office of the clerk of the district court of a district, or jurisdiction is conferred upon a district court or the judge thereof, the like acts may be done, papers filed and proceedings taken by and in the office of the clerk of the county court of the county of Victoria, and the like jurisdiction may be exercised by that court or a judge thereof in respect of matters arising in the provisional county of Haliburton. R.S.O. 1937, c. 201, s. 3. Proceedings in provisional county of Haliburton.

4.—(1) Every agreement, verbal or written, express or implied, on the part of any person employed in labour that this Act is not to apply, or that the remedies provided by it are not to be available for the benefit of such person, shall be null and void. Contracts waiving application of Act to be void.

(2) This section shall not apply to any manager, officer or foreman, or to any person whose wages are more than \$3 a day. R.S.O. 1937, c. 201, s. 4. Exceptions.

Lien for
labour on
logs or
timber.

5.—(1) A person performing labour shall have a lien upon the logs or timber in connection with which the labour is performed for the amount due for such labour, and the lien shall have precedence over all other claims or liens thereon, except a claim or lien of the Crown for any dues or charges or which a timber slide company or any owner of a slide or boom may have thereon for tolls.

Contractors,
with respect
to labour
or services
to be per-
formed on
timber got
out for
export.

(2) A contractor who has entered into any agreement under the terms of which he himself or by others in his employ has cut, removed, taken out or driven logs or timber, shall be deemed to be a person performing labour upon logs or timber within the meaning of this section, and such cutting, removal, taking out and driving shall be deemed to be the performance of labour within the meaning of this section. R.S.O. 1937, c. 201, s. 5.

Lien to
cease unless
proceedings
taken.

6. The lien shall cease unless the claim therefor is filed and proceedings are taken to enforce the same as hereinafter provided. R.S.O. 1937, c. 201, s. 6.

Claim of lien
to be filed.

7.—(1) The person claiming the lien shall state his claim in writing (Form 1), setting out briefly the nature of the claim, the amount claimed to be due and a description of the logs or timber upon which the lien is claimed.

Verified by
affidavit.

(2) The claim shall be verified by the affidavit of the claimant, his solicitor or agent (Form 2).

Time for
filing claim,
contractors;

(3) In the case of a contractor coming within subsection 2 of section 5 the claim and affidavit shall be filed on or before the 1st day of September next following the performance of the labour.

wage-
earners.

(4) In other cases, if the labour was performed between the 1st day of October and the 1st day of April next thereafter, the claim shall be filed on or before the 30th day of the same month of April, but if the labour was performed on or after the 1st day of April and before the 1st day of October in any year the claim shall be filed within 30 days after the last day on which such labour or any part thereof was performed. R.S.O. 1937, c. 201, s. 7.

Place for
filing claim.

8.—(1) Except as hereinafter provided the claim and affidavit shall be filed in the office of the district court of the provisional judicial district in which the labour or some part thereof was performed.

Where labour
performed
in certain
localities.

(2) Where the labour was performed upon logs or timber got out to be run down or which have been run down any of the rivers or streams flowing into the Georgian Bay, Lake

Huron, Lake Superior, Lake of the Woods, Rainy Lake, Rainy River or Pigeon River, the claim may, at the option of the claimant, be filed in the office of the clerk of the district court of the district in which the labour was performed or in the office of the clerk of the district court of the district in which the drive terminates or reaches the waters of such bay, lake or river.

(3) Where the labour or some part of it was performed in the provisional county of Haliburton, the claim may be filed in the office of the clerk of the county court of the county of Victoria. R.S.O. 1937, c. 201, s. 8. In Haliburton.

9. No sale or transfer of the logs or timber during the time limited for the filing of the claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, shall affect the lien, but the lien shall remain in force against such logs and timber in whosoever possession the same is found. R.S.O. 1937, c. 201, s. 9. Sale not to affect lien.

10.—(1) Any person having a lien upon logs or timber may enforce the lien by suit, where the claim does not exceed \$200, in the division court within whose jurisdiction the logs or timber or any part thereof may be at the time of the commencement of the suit, or, where the claim exceeds \$200, in the proper district court where the claim is filed, and the suit may be commenced to enforce the lien, if the claim is then payable, immediately after the filing of the claim, or, if credit has been given, immediately after the expiry of the period of credit, and the lien shall cease unless the proceedings to enforce it are commenced within 30 days after the filing of the claim or after the expiry of the period of credit. Enforcement of liens by suit in district or division courts.

(2) In all such suits the person liable for the payment of the claim shall be made the party defendant. Defendant.

(3) Where the defendant is not the owner of the logs, a copy of the writ shall be served on the owner as well as the defendant, or the person or agent in whose possession, custody or control they may be found, or the person in charge of the operations in respect of which the claim of lien arose. On whom writ to be served.

(4) The owner may, on his own application, or by direction of the judge, be made a party defendant. R.S.O. 1937, c. 201, s. 10. Owner may be made defendant.

11.—(1) There shall be attached to or endorsed upon the writ or summons a copy of the claim filed, and no statement of claim shall be necessary unless ordered, and no pleading Procedure.

or notice of dispute or defence other than such as is required in a suit or proceeding in a division court shall be necessary whether the suit is brought in a district or in a division court.

Where no
defence
filed.

(2) Where no dispute or defence is filed, judgment may be signed and execution issued.

Powers of
court.

(3) The court or judge may order particulars to be given or amendments to be made or may add or strike out the names of parties and may set aside judgment and permit a dispute or defence to be filed on such terms as may appear just.

Form of
writ and
practice.

(4) The writ or summons shall be in the form, as nearly as may be, of that in use in the court in which it is issued, but the practice thereafter shall follow as nearly as may be that of the division court.

Service of
process.

(5) A writ or summons may be served anywhere in Ontario in the same manner as in other cases.

Form of
judgment.

(6) The judgment shall declare that the judgment is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case. R.S.O. 1937, c. 201, s. 11.

Procedure
subsequent
to execution
in certain
cases.

12. Where an execution has been placed in the hands of a sheriff or bailiff for execution, and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution, and the proceedings relating to proof of other claims and the payment of money into court and the distribution of the money and otherwise shall, as far as practicable, be the same as is hereinafter provided for proceedings upon and subsequent to an attachment. R.S.O. 1937, c. 201, s. 12.

Procedure
attachment
in first
instance.

13.—(1) Where an attachment issues in the first instance, the statement of claim and defence and proceedings to judgment shall be the same as where a suit has been begun by writ or summons.

Where
attachment
after action.

(2) Where an attachment issues after proceedings have been commenced by writ or summons, the proceedings, except such as are necessary to be taken under the attachment, shall be carried to judgment under the writ or summons. R.S.O. 1937, c. 201, s. 13.

Form of
attachment.

14. The forms of attachment shall be as nearly as may be the same as are in use in the district courts or in the division courts. R.S.O. 1937, c. 201, s. 14.

15.—(1) Whether the proceedings are commenced by writ or summons or attachment, the judge may direct that the proceedings shall be disposed of summarily by him without waiting for the regular sittings of the court, upon such terms as to notice and otherwise as he may deem proper, and the proceedings may be so disposed of. Summary disposal of cases.

(2) The judge may set aside an attachment or seizure or direct the release of logs or timber that have been seized on such terms as he may deem proper. R.S.O. 1937, c. 201, s. 15. Powers of judge.

16. Where the amount of the claim does not exceed \$200 and is not less than \$10, upon the production and filing of a copy of the claim and affidavit and an affidavit of the claimant verifying the claim, and showing that the same has been filed and stating, When attachment to issue from division court.

- (a) that he has good reason to believe and does believe that the logs or timber are about to be removed out of Ontario; or
- (b) that the person indebted has absconded from Ontario with intent to defraud or defeat his creditors; or
- (c) that he has good reason to believe, and does believe that the person indebted is selling or otherwise disposing of the logs or timber, or is about to do so, with intent to defraud or defeat his creditors; or
- (d) that the logs or timber are about to be cut into lumber or other timber so that the same cannot be identified; and
- (e) that he is in danger of losing his claim if attachment does not issue,

and if affidavits of two persons corroborating the affidavit of the plaintiff in respect of clause *a*, *b*, *c* or *d* are also filed, the clerk of the proper division court shall issue a warrant, as in the case of an attachment under section 163 of *The Division Courts Act*, directed to the bailiff of the division court commanding such bailiff to attach, seize, take and safely keep such logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien, and to return the warrant forthwith to the court out of which the warrant issued. R.S.O. 1937, c. 201, s. 16. Rev. Stat., c. 106.

17.—(1) Where the amount claimed exceeds \$200, upon the filing of a copy of the claim and affidavit, the clerk of the district court of the district where the action may be brought, When attachment to issue out of district court.

upon the filing of an affidavit made by the claimant showing such facts as would authorize the issue of an attachment under section 16 and such affidavit in corroboration as is provided in section 16, shall issue a writ of attachment directed to the sheriff of the district commanding him to attach, seize and take and safely keep the logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien.

Subsequent seizure.

(2) Where additional claims are made, or the amount of the claim is increased or a sufficient seizure has not been made, a second or subsequent seizure may be made either under the execution or attachment. R.S.O. 1937, c. 201, s. 17.

Warrant or writ to be served on defendant and the owner of logs.

18.—(1) The warrant or writ of attachment shall also, where no writ or summons has issued, summon the defendant to appear before the district court or division court out of which the attachment issued, and a copy of the writ of attachment shall be served upon the defendant, and if the defendant is not the owner of the logs or timber described in the warrant or writ, a copy of the warrant or writ of attachment shall also be served upon the owner of the logs or timber or upon the person or agent in whose possession, custody or control they may be found.

When order allowing service necessary.

(2) When a warrant or writ is served upon a person in possession, an order of the judge allowing the service shall be necessary.

Service where no one in possession of logs.

(3) Where the defendant or the owner of the logs or timber cannot be found within the district, and there is no one in possession of the logs or timber, a copy of the warrant or writ may be forwarded to the sheriff of any county or district or the bailiff of any division court within whose jurisdiction the defendant or the owner resides or may be found, and such copy may be served by the sheriff or the bailiff upon the defendant or the owner.

Owner may be made a party.

(4) The owner may, on his own application or by direction of the judge, be made a party defendant.

When defendant or owner not in Province, etc.

(5) If the defendant or the owner cannot be found within Ontario or the owner cannot be ascertained, and no person is in possession of the logs or timber, the warrant or writ may be served in such manner as the judge directs.

Admission of parties to make defence.

(6) Notwithstanding that a defence has not been entered, the judge may admit the defendant and the owner or either of them to make full defence upon such terms as he may deem just. R.S.O. 1937, c. 201, s. 18.

19. A sheriff or bailiff shall not seize or detain under a warrant or writ of attachment any logs or timber when in transit from the place where cut to the place of destination when such place of destination is within the district in which the proceedings were commenced, but if such logs or timber are so in transit, or are in the possession of any person for the purpose of being driven or sorted and delivered to the owner, or to satisfy any statutory lien, attachment of the logs or timber may be made by serving a copy of the warrant or writ upon the person in whose possession, custody or control they are, who shall from the time of such service hold the same, both on his own behalf and for the sheriff or bailiff to the extent of the lien, until the logs or timber have reached their place of destination or are driven or sorted, as the case may be, and when they have reached their place of destination or are driven or sorted the sheriff or bailiff may receive the logs or timber from such person, and the statutory lien of such person shall not be released by the holding of the sheriff or bailiff. R.S.O. 1937, c. 201, s. 19.

Logs or timber in transit within district not to be detained.

20. The claimant or the plaintiff, and the sheriff or bailiff may, by leave of the judge, take any proceedings which the owner of any logs or timber may take under *The Lakes and Rivers Improvement Act* for the purpose of procuring the separation of any logs or timber so seized by the sheriff or bailiff under this Act from other logs or timber with which they have become intermixed, or a sale may be made without such separation if the judge so directs. R.S.O. 1937, c. 201, s. 20.

Separation of logs.

Rev. Stat., c. 195.

21. In case of an attachment, if the owner of the logs or timber or any person on his behalf executes and files with the clerk of the court out of which the attachment issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the clerk conditioned for the payment of the claim and of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, the clerk shall issue an order to the sheriff or bailiff having in charge the logs or timber directing their release, and upon service of such order upon the sheriff or bailiff he shall release the same. R.S.O. 1937, c. 201, s. 21.

Sheriff or bailiff to restore possession upon execution of bond.

22.—(1) Any person who has been served with a copy of the warrant or writ of attachment and who desires to dispute the claim shall, within 14 days after such service, enter in the court in which proceedings are pending a notice that he disputes the claim in whole or in part.

Notice of dispute.

If no notice of dispute entered judgment may be entered.

(2) If no notice of dispute is entered, judgment may be entered as in the case of default, and the practice and procedure shall be the same as in a suit begun by writ or summons. R.S.O. 1937, c. 201, s. 22.

Persons served with attachment may pay amount claimed into court.

23.—(1) The defendant may, at any time before the sale of the logs or timber, pay into court the amount for which the lien is claimed, together with the amount for which a lien is claimed in any other suit, and also the costs of the proceedings to the date of such payment to be taxed by the clerk of the court if required, and shall thereupon be entitled to a certificate vacating the liens.

Subsequent procedure.

(2) Upon such certificate being filed with the clerk of the court in which the claim was filed, the liens shall be vacated and all further proceedings thereon shall cease, and the defendant shall be entitled to an order directing the delivery up of the logs or timber seized under the attachment, or the cancellation of any bond given under section 21. R.S.O. 1937, c. 201, s. 23.

Day for hearing to be fixed by advertisement.

24.—(1) After the expiration of the time within which a notice of dispute may be entered, the judge shall, upon the application of the plaintiff, appoint a day upon which all persons claiming a lien on the logs or timber are to appear before him for the adjustment of their claims and the settlement of accounts.

Service of appointment and advertisement.

(2) The appointment shall be served upon the defendants and upon the owner, if the judge so directs, and shall also, if the judge so directs, be published once a week for two weeks before the day appointed in a newspaper having a general circulation in the district in which proceedings are pending.

Notification of lien-holders and the Minister.

(3) A copy of the appointment shall also be sent by registered post to every claimant known to the plaintiff and to the Minister of Lands and Forests, at least two weeks before the day appointed, directed to the post office address of such claimant where the same is known, and if not known then to his last known address. R.S.O. 1937, c. 201, s. 24.

Parties filing notices of disputes or claims to attend on day named in appointment.

25.—(1) Upon the day named in the appointment, the persons served with a copy thereof and all other persons claiming a lien on the logs or timber who have prior to that date filed with the clerk a notice claiming a lien on the logs or timber and stating the nature and amount of their claims, shall attend before the judge.

Proof of claims.

(2) Where a claim is brought pursuant to the notice, it may be established *prima facie* by affidavit, but any person

interested may cross-examine a deponent, and may require that the claim be established as in other cases.

(3) The judge shall hear all parties and take all accounts necessary to determine the amounts due to the claimants, and shall tax costs and determine by whom the costs shall be paid, and settle priorities and generally determine all such matters as may be necessary for the adjustment of the rights of all parties. R.S.O. 1937, c. 201, s. 25.

26.—(1) At the conclusion of the inquiry the judge shall make his report and order which shall state his findings and direct the payment into court within 10 days thereafter of the amounts found due and the costs, and that in default of payment, the logs or timber will be sold by the sheriff or bailiff for the satisfaction thereof.

(2) In default of payment into court within the time named in the order the logs or timber shall, within 20 days thereafter, be sold by the sheriff or bailiff in the same manner and subject to the same provisions of law as goods seized or taken in execution, or after such additional publicity has been given to the sale as the judge may direct.

(3) The amount realized by the sale shall, after deducting the expenses thereof and the fees and poundage of the sheriff or bailiff, be paid into court and shall be paid out by the clerk to the parties entitled thereto under the order of the judge.

(4) Where the amount realized upon the sale is not sufficient to pay the claims and costs in full, the judge shall apportion the amount realized *pro rata* among the claimants.

(5) Where after sale and distribution any balance remains due to any person under the order of the judge, the clerk shall, upon application of such person, give to him a certificate that such amount remains due, and such certificate may be entered as a judgment in the district court or division court having jurisdiction against the person by whom the claim is directed to be paid, and execution may be issued thereupon. R.S.O. 1937, c. 201, s. 26.

27. Where nothing is found due upon the several claims filed or upon the lien with respect to which proceedings have been taken, the judge may order that the lien be discharged and the logs or timber released or the security given therefor delivered up and cancelled, and may order payment of any costs which may be found due to the defendant or the owner of the logs or timber. R.S.O. 1937, c. 201, s. 27.

Costs.

28.—(1) Where the taxed costs, exclusive of necessary disbursements, which are payable out of the amount realized for the satisfaction of the lien exceed 25 per cent of the amount realized, such costs, upon application by any party, may be reduced by the judge so that the costs will not in the aggregate exceed 25 per cent, and no more costs than such reduced amount shall be recovered between party and party or solicitor and client.

Limit of,
where claim
not con-
tested.

(2) The costs in addition to actual and necessary disbursements which may be taxed to any claimant proving an uncontested claim shall not exceed \$5 if a solicitor is employed, and where the amount claimed is within the jurisdiction of the division court shall not exceed \$2 where a solicitor is employed.

Where claim
contested.

(3) In case of a contest, where a solicitor is employed, the judge may allow such costs, not exceeding in any case \$10 when taxed on the district court scale or \$5 when taxed on the division court scale, in addition to actual and necessary disbursements, but where the claim does not exceed \$50 then such costs shall not exceed \$3.

Tariff.

(4) Subject to the provisions of this section, the costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the court in which proceedings under this Act have been taken. R.S.O. 1937, c. 201, s. 28.

Disposition
of balance
after sale and
satisfaction
of liens.

29.—(1) Where money paid into court as the proceeds of the sale of logs or timber is more than sufficient to satisfy the claims which have been proved with interest and costs, the judge, upon the application of any creditor within 30 days from the day fixed by the order for payment, shall order that such remaining money be paid over to the sheriff who shall hold and distribute the same as provided by *The Creditors' Relief Act* in the case of money levied under execution, and all parties having claims may take the like proceedings as those provided by *The Creditors' Relief Act* for proving claims and obtaining certificates or executions.

Rev. Stat.,
c. 78.

Order for
payment.

(2) If no such application is made to the judge within such period of 30 days, the judge may order payment out of court of any remaining money to the person entitled thereto. R.S.O. 1937, c. 201, s. 29.

Dismissal of
proceedings
for want of
prosecution.

30. Any person affected by proceedings taken under this Act may apply to the judge to dismiss the proceedings for want of prosecution, and the judge may make such order upon the application as he may deem just. R.S.O. 1937, c. 201, s. 30.

31.—(1) Nothing in this Act shall deprive any person of any other remedy to which he may be entitled for the recovery of any amount due in respect of labour performed upon or in connection with any logs or timber. Other remedies not affected.

(2) Where an action is brought to enforce a lien but no lien is found to exist in respect of the claim, judgment may be given for any amount found due as in an ordinary action. Where lien not established, judgment for amount found due. R.S.O. 1937, c. 201, s. 31.

32. Any number of lienholders may join in taking proceedings under this Act, or may assign their claims to any one or more persons, but the claim to be filed under section 7 shall include particular statements of the several claims joined which shall be verified by the affidavits of the persons so joining, or separate claims may be filed and one writ, summons or attachment issued on behalf of all the persons so joining. Any number of lienholders may join in proceedings. R.S.O. 1937, c. 201, s. 32.

33. Where proceedings have been commenced in the district court and proceedings are brought or are thereafter pending in respect of the same logs or timber, or any part of them, in a division court, the judge may order the proceedings in the division court to be adjourned before him, and shall in his inquiry include the claims in respect of which proceedings are pending in the division court, and thereafter all persons who have filed claims in the division court shall be entitled to prove their claims and to share in the benefit of the proceedings in the district court. Transfer of suit from division court in case proceedings taken in district court. R.S.O. 1937, c. 201, s. 33.

34. Where suits are brought in several district courts or in several division courts, the procedure under sections 24 to 26 shall be had in the district or division court out of which an execution or attachment first issued, unless the judge of such court otherwise orders. Where suits in several courts. R.S.O. 1937, c. 201, s. 34.

35. The practice and procedure in actions brought in the district courts or in division courts, shall, so far as they are not inconsistent with this Act, apply to proceedings taken under this Act. Practice. R.S.O. 1937, c. 201, s. 35.

36. Any person who unlawfully and maliciously, and without reasonable and probable cause, takes or causes to be taken, proceedings under this Act by which logs or timber are seized, detained or sold shall be liable therefor in an action at the suit of any person aggrieved thereby, and shall also be liable for all loss and damage occasioned by such seizure by reason of such logs or timber breaking away or being scattered or lost, or otherwise. Liability for loss occasioned by improper seizure. R.S.O. 1937, c. 201, s. 36.

Illegal
payments.

37.—(1) No payment of wages shall be made or offered to any person for any labour performed upon or in connection with any logs or timber by any cheque, order, I.O.U., bill of exchange, promissory note or other undertaking, other than a bank note or bill, drawn upon or payable at or within any place out of Ontario.

Penalties.

(2) Every person who violates, or who directs or knowingly suffers his agent or servant to violate, the provisions of this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$20. R.S.O. 1937, c. 201, s. 37.

Illegal
payments
not to be
allowed as a
defence in
any action.

38. No payment made or offered to be made in violation of section 37 shall be a defence to an action or proceeding for the recovery of wages, or be receivable in evidence therein, nor shall any such payment or offer of payment in any way affect any claim of lien for labour on logs or timber under this Act, but in case of the sale, or transfer of any instrument mentioned in section 37, in whole or in part, by the payee the consideration received by him shall be treated as payment on account. R.S.O. 1937, c. 201, s. 38.

Form of
proceedings.

39. Subject to the approval of the Lieutenant-Governor in Council, the Rules Committee may prescribe forms for the more convenient carrying out of the provisions of this Act. R.S.O. 1937, c. 201, s. 39; 1941, c. 55, s. 45, *amended*.

FORM 1

(Section 7 (1))

CLAIM OF LIEN

A. B. (name of claimant) of (state residence of claimant), if claim made as assignee then say as assignee of, giving name and address of assignor) under *The Woodmen's Lien for Wages Act*, claims a lien upon certain logs or timber of (here state the name and residence of the owner of logs or timber upon which the lien is claimed if known) which logs and timber are composed of (state the kinds of logs and timber such as pine sawlogs, cedar or other posts or railway ties, shingle bolts or staves, etc., also where situate at time of filing of claim) in respect of the following work, that is to say, (here give a short description of the work done for which the lien is claimed) which work was done for (here state the name and residence of the person upon whose credit the work was done) between the.....day ofand the.....day ofat.....per (month or day as the case may be).

The amount claimed as due (or to become due) is the sum of.....(and when credit has been given, the said work was done on credit, and the period of credit will expire on the.....day of.....).

Dated at.....this.....day of....., 19.....

(Signature of claimant).

FORM 2

(Section 7 (2))

AFFIDAVIT TO BE ATTACHED TO CLAIM

I,, make oath and say that I have read (or have heard read) the foregoing claim, and that the facts therein set forth are, to the best of my knowledge and belief, true, and that the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all sums of money, goods or merchandise to which the said (naming the debtor) is entitled to credit.

Sworn before me at.....in the district {
of.....this.....day of....., 19..... }

A Commissioner.

R.S.O. 1937, c. 201, Form 1.

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CHAPTER 430

The Workmen's Compensation Act

1.—(1) In this Act,

Interpre-
tation.

- (a) "accident" includes a wilful and an intentional act, not being the act of the workman, and a fortuitous event occasioned by a physical or natural cause; R.S.O. 1937, c. 204, s. 1 (1), cl. (a).
- (b) "accident fund" means the fund provided for the payment of compensation, outlays and expenses under the Act in respect of Schedule 1, the salaries of the Commissioners and all expenses arising out of the establishment, maintenance and operation of mine rescue stations as provided by *The Mining Act*; Rev. Stat., c. 236. 1948, c. 99, s. 1.
- (c) "Board" means the Workmen's Compensation Board;
- (d) "construction" includes reconstruction, repair, alteration and demolition;
- (e) "dependants" means such of the members of the family of a workman as were wholly or partly dependent upon his earnings at the time of his death or who but for the incapacity due to the accident would have been so dependent; R.S.O. 1937, c. 204, s. 1 (1), cls. (c-e).
- (f) "earnings" and "wages" includes any remuneration capable of being estimated in terms of money; 1947, c. 119, s. 1 (1), *part*.
- (g) "employer" includes every person having in his service under a contract of hiring or apprenticeship, written or oral, express or implied, any person engaged in any work in or about an industry and includes the Crown in right of the Province and any permanent board or commission appointed by the Crown in right of the Province, and where the services of a workman are temporarily lent or hired to another person by the person with whom the workman has entered into such a contract the latter is deemed to continue to be the employer of the workman while he is working for that other person; R.S.O. 1937, c. 204, s. 1 (1), cl. (f); 1944, c. 69, s. 1 (1).

- (h) "employment" includes employment in an industry or any part, branch or department of an industry; R.S.O. 1937, c. 204, s. 1 (1), cl. (g).
- (i) "industrial disease" means any of the diseases mentioned in Schedule 3, and any other disease peculiar to or characteristic of a particular industrial process, trade or occupation; 1947, c. 119, s. 1 (2).
- (j) "industry" includes establishment, undertaking, trade and business;
- (k) "invalid" means physically or mentally incapable of earning;
- (l) "manufacturing" includes making, preparing, altering, repairing, ornamenting, printing, finishing, packing, assembling the parts of and adapting for use or sale any article or commodity;
- (m) "medical referee" means medical referee appointed by the Board;
- (n) "member of the family" means wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother and half-sister, and a person who stood *in loco parentis* to the workman or to whom the workman stood *in loco parentis*, whether related to him by consanguinity or not so related, and where the workman is the parent or grandparent of an illegitimate child, includes such child, and where the workman is an illegitimate child includes his parents and grandparents;
- (o) "outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials;
- (p) "regulations" means regulations made under this Act; R.S.O. 1937, c. 204, s. 1 (1), cls. (i-o).
- (q) "silicosis" means a fibrotic condition of the lungs sufficient to produce a lessened capacity for work, caused by the inhalation of silica dust;
- (r) "superannuation fund" means The Workmen's Compensation Board Superannuation Fund; 1947, c. 119, s. 1 (1), *part*.

- (s) "workman" includes a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, but when used in Part I does not include an outworker or an executive officer of a corporation. R.S.O. 1937, c. 204, s. 1 (1), cl. (p).

(2) The exercise and performance of the powers and duties of,

Municipal corporations etc., and school boards.

- (a) a municipal corporation;
- (b) a public utilities commission or any other commission or any board having the management and conduct of any work or service owned by or operated for a municipal corporation;
- (c) a public library board;
- (d) the board of trustees of a police village; and
- (e) a school board except a rural school board,

shall for the purposes of Part 1 be deemed the trade or business of the corporation, commission, board, board of trustees or school board. 1950, c. 89, s. 1.

2. A reference in this Act to Schedule 1, 2 or 3 is a reference to Schedule 1, 2 or 3, as the case may be, in the regulations. 1950, c. 89, s. 2.

Schedules 1, 2 and 3.

PART I

COMPENSATION

3.—(1) Where in any employment to which this Part applies, personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall be liable to provide or to pay compensation in the manner and to the extent hereinafter mentioned, except where the injury,

Compensation to workmen.

- (a) does not disable the workman for a period of at least seven days from earning full wages at the work at which he was employed; or
- (b) is attributable solely to the serious and wilful misconduct of the workman unless the injury results in death or serious disablement.

(2) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it

Presumptions.

occurred in the course of the employment, and where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.

Compensation to date from disability.

(3) Where compensation for disability is payable, it shall be computed and be payable from the date of the disability.

Section not to apply to casual employment.

(4) This section shall not apply to a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business. R.S.O. 1937, c. 204, s. 2.

Employers liable to contribute to the accident fund.

4. Employers in the industries for the time being included in Schedule 1, shall be liable to contribute to the accident fund as hereinafter provided, but shall not be liable individually to pay compensation. R.S.O. 1937, c. 204, s. 4.

Employers individually liable.

5. Employers in the industries for the time being included in Schedule 2 shall be liable individually to pay compensation and medical aid. R.S.O. 1937, c. 204, s. 3; 1946, c. 111, s. 1.

Accident while workman employed out of Ontario.

6.—(1) Where the place of business or chief place of business of the employer is situate in Ontario and the residence and usual place of employment of the workman are in Ontario and an accident happens while the workman is employed out of Ontario and his employment out of Ontario has lasted less than six months, the workman or his dependants shall be entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario.

Accident while workman out of Ontario temporarily.

(2) Where the place of business or chief place of business of the employer is situate in Ontario and the residence of the workman is out of Ontario but his usual and principal place of employment is in Ontario and an accident happens while the workman is out of Ontario merely for some temporary purpose connected with his employment, the workman or his dependants shall be entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario.

Where employer's place of business out of Ontario.

(3) Where an accident happens out of Ontario and the employer's place of business or chief place of business is situate out of Ontario and the workman is entitled to compensation under the law of the place where the accident happens, compensation shall not be payable to the workman or his dependants whether his residence is in or out of Ontario unless his place of employment is in Ontario and he is at the time of the accident out of Ontario merely for some casual or incidental purpose connected with his employment.

(4) Where an accident happens out of Ontario on a steam-boat, ship or vessel or on a railway and the residence of the workman is in Ontario and the work or service rendered by him is required to be performed both in and out of Ontario, the workman or his dependants shall be entitled to compensation under this Part as if the accident had happened in Ontario. R.S.O. 1937, c. 204, s. 5 (1-4).

Accident on steamboat, ship, vessel or railway.

(5) Where an accident happens out of Ontario on a steam-boat, ship or vessel and the residence of the workman is in Ontario, and whether he had been employed previously in Ontario or not, and regardless of the duration of his employment out of Ontario, the workman or his dependants shall be entitled to compensation under this Part if the steamboat, ship or vessel is registered in Canada or if the owner or charterer of the steamboat, ship or vessel has his chief place of business in Ontario. 1943, c. 37, s. 1.

Accident on steam-boat or vessel outside of Ontario.

(6) Except as provided in this section, no compensation shall be payable under this Part where the accident to the workman happens while he is employed elsewhere than in Ontario.

Accidents excluded.

(7) Compensation payable in respect of an accident happening elsewhere than in Ontario shall, except where the employer has fully contributed to the accident fund in respect of all the wages of workmen in his employ who are engaged in the business or work in which the accident happens, be paid by the employer individually, and the business or work carried on elsewhere than in Ontario by an employer who has not so contributed to the accident fund shall be deemed to be in Schedule 2. R.S.O. 1937, c. 204, s. 5 (5, 6).

Where employer individually liable.

7.—(1) Where by the law of the country or place in which the accident happens the workman or his dependants are entitled to compensation in respect of it, they shall be bound to elect whether they will claim compensation under the law of such country or place or under this Part and to give notice of such election, and if such election is not made and notice given it shall be presumed that they have elected not to claim compensation under this Part.

Where compensation payable by law of foreign country, workman to elect.

(2) Notice of the election, where the compensation under this Part is payable by the employer individually, shall be given to the employer, and where the compensation is payable out of the accident fund, to the Board, and shall be given in both cases within three months after the happening of the accident, or in case it results in death, within three months after the death or within such longer period as either before or after the expiration of such three months the Board may allow. R.S.O. 1937, c. 204, s. 6.

How election to be made.

Dependants
not resident
in Canada.

8.—(1) Where a dependant is not a resident of Canada, he shall not be entitled to compensation unless by the law of the place or country in which he resides the dependants of a workman to whom an accident happens in such place or country if resident in Canada would be entitled to compensation, and where such dependants would be entitled to compensation under such law the compensation to which the non-resident dependant shall be entitled under this Part shall not be greater than the compensation payable in the like case under that law.

Exception.

(2) Notwithstanding subsection 1 the Board may award such compensation or sum in lieu of compensation to any such non-resident dependant as may be deemed proper and may pay the same out of the accident fund, or order it to be paid by the employer, as the case may be.

Where
dependants
non-resi-
dents.

(3) Notwithstanding any provision elsewhere contained, where a workman in the employ of a railway company has been obliged by the nature of his work to change his residence from Ontario to a place outside of Ontario, his dependants who have become non-residents of Ontario by reason thereof shall in respect of an accident to such workman happening in Ontario, be entitled, should they resume residence in Ontario, to the same compensation as if they had been resident in Ontario at the time of the workman's death, and this provision shall apply to all pension payments to dependants accruing after the 12th day of August, 1922, whether the accident happened before or after that date, and whether the award of compensation has been heretofore or is hereafter made, but shall not entitle any person to claim additional compensation for any period prior to that date. R.S.O. 1937, c. 204, s. 7, *amended*.

Where work-
man entitled
to action
against
person other
than em-
ployer.

9.—(1) Where an accident arising out of and in the course of his employment happens to a workman under such circumstances as entitle him or his dependants to an action against some person other than his employer, the workman or his dependants if entitled to compensation under this Part may claim such compensation or may bring such action. R.S.O. 1937, c. 204, s. 8 (1); 1943, c. 37, s. 2.

Workman
entitled to
difference
between
compensa-
tion under
Act and
amount
collected.

(2) If an action is brought and less is recovered and collected than the amount of the compensation to which the workman or his dependants are entitled under this Part, the difference between the amount recovered and collected and the amount of such compensation shall be payable as compensation to the workman or his dependants.

(3) If the workman or his dependants elect to claim compensation under this Part, the employer, if he is individually liable to pay it, and the Board, if the compensation is payable out of the accident fund, shall be subrogated to the rights of the workman or his dependants and may maintain an action in his or their names or in the name of the Board against the person against whom the action lies and any sum recovered from him by the Board shall form part of the accident fund.

Subrogation of employer or Board to rights of workman.

(4) The election shall be made and notice of it shall be given within the time and in the manner provided by section 7. R.S.O. 1937, c. 204, s. 8 (2-4).

How election to be made.

(5) No employer in Schedule 1 and no workman of an employer in Schedule 1 or dependant of such workman shall have a right of action against any employer in Schedule 1 or against any workman of any such employer in any case within subsection 1, but in any case where it appears to the satisfaction of the Board that a workman of an employer in any class or group in Schedule 1 is injured or killed owing to the negligence of an employer or the workman of an employer in another class or group in Schedule 1, the Board may direct that the compensation and medical aid awarded in any such case shall be charged against the class or group to which the last-mentioned employer belongs. 1939, c. 54, s. 1.

Right of action declared to be taken away as against employer in Schedule 1.

(6) In any action brought by a workman of an employer in Schedule 1 or dependant of such workman in any case within subsection 1 or maintained by the Board under subsection 3 and one or more of the persons found to be at fault or negligent is the employer of the workman in Schedule 1, or any other employer in Schedule 1, or any workman of any employer in Schedule 1, no damages, contribution or indemnity shall be recoverable for the portion of the loss or damage caused by the fault or negligence of such employer of the workman in Schedule 1, or of any other employer in Schedule 1, or of any workman of any employer in Schedule 1, and the portion of the loss or damage so caused by the fault or negligence of such employer of the workman in Schedule 1, or of any other employer in Schedule 1, or of the workman of any employer in Schedule 1, shall be determined although such employer or workman is not a party to the action.

Damages.

(7) In any action brought by a workman of an employer in Schedule 2 or dependant of such workman in any case within subsection 1 or maintained by the employer of the workman under subsection 3 and one or more of the persons found to be at fault or negligent is the employer of the workman in Schedule 2, no damages, contribution or indemnity shall be recoverable for the portion of the loss or damage caused by the fault or negligence of such employer and the portion of

Idem.

the loss or damage so caused by the fault or negligence of such employer shall be determined although such employer is not a party to the action. 1945, c. 28, s. 1.

Employers
and
contractors.

10.—(1) The workmen of a contractor or subcontractor executing any work in or for the purposes of an industry under Part I, carried on by another person, in this subsection and in subsection 2 referred to as the principal, shall be deemed to be the workmen of the principal unless and until such contractor or subcontractor is, in respect of such work, assessed, or added and assessed, as the case may be, as an employer in Schedule 1, or, in cases where such contractor or subcontractor is, in respect of such work, individually liable for payment of compensation, unless and until the Board finds and declares that the responsibility of such contractor or subcontractor is sufficient protection to his workmen for the benefits provided for by this Act.

Right of
principal
employer to
reimburse-
ment from
contractor.

(2) Where a principal has made payment of assessment or compensation or furnished medical aid which but for subsection 1 he would not have been liable to pay or furnish, he shall be entitled to reimbursement from the contractor or subcontractor to such extent as the Board finds such contractor or subcontractor would have been liable.

Liability of
principal to
pay assess-
ments.

(3) Where a person, whether carrying on an industry included in Schedule 1 or not, in this subsection and in subsection 4 referred to as the principal, contracts with any other person, in this section referred to as the contractor, for the execution by or under the contractor of the whole or any part of any work for the principal, it shall be the duty of the principal to see that any sum which the contractor or any subcontractor is liable to contribute to the accident fund is paid, and if any such principal fails to do so he shall be personally liable to pay it to the Board, and the Board shall have the like powers and be entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

Right of
indemnity.

(4) Where the principal is liable to make payment to the Board under subsection 3, he shall be entitled to be indemnified by any person who should have made such payment and shall be entitled to withhold out of any indebtedness due to such person a sufficient amount to answer the same, and all questions as to the right to and the amount of any such indemnity shall be determined by the Board.

Liability of
contractor
or subcon-
tractor to
contribute.

(5) Nothing in this section shall prevent a workman claiming compensation or the Board collecting contribution to the

accident fund from the contractor or any subcontractor instead of the principal. R.S.O. 1937, c. 204, s. 9.

11. Where compensation is payable out of the accident fund and an employer carries himself on his pay roll or an executive officer of a corporation is carried on the pay roll of the corporation at a salary or wage which the Board deems reasonable, but not exceeding the rate of \$3,000 per annum, and it is stated in the pay roll statement furnished to the Board under section 90 that it is desired that such employer or executive officer be included as a workman, and the amount of his salary or wages is shown in such statement and included in the estimate for the year, such employer or executive officer shall be deemed to be a workman within the meaning of this Act, and he or his dependants shall be entitled to compensation accordingly, but for the purpose of determining the compensation his earnings shall not be taken to be more than the amount of his salary or wages as shown by such statement. R.S.O. 1937, c. 204, s. 11; 1949, c. 114, s. 1.

Where employer carried on payroll, he and dependants entitled to compensation.

12. No action shall lie for the recovery of compensation whether it is payable by the employer individually or out of the accident fund, but all claims for compensation shall be heard and determined by the Board. R.S.O. 1937, c. 204, s. 12.

No action to be brought to recover compensation.

13. If a workman receiving a weekly or other periodical payment ceases to reside in Ontario, he shall not thereafter be entitled to receive any such payment unless a medical referee certifies that the disability resulting from the injury is likely to be of a permanent nature, and if a medical referee so certifies and the Board so directs, the workman shall be entitled quarterly to the amount of the weekly or other periodical payments accruing due if he proves in such manner as may be prescribed by the regulations his identity and the continuance of the disability in respect of which the same is payable. R.S.O. 1937, c. 204, s. 13.

Where workman residing out of Ontario entitled to compensation.

14. The provisions of this Part shall be in lieu of all rights and rights of action, statutory or otherwise, to which a workman or the members of his family are or may be entitled against the employer of such workman for or by reason of any accident happening to him or any industrial disease contracted by him on or after the 1st day of January, 1915, while in the employment of such employer, and no action in respect thereof shall lie. R.S.O. 1937, c. 204, s. 14 (1); 1943, c. 37, s. 5; 1944, c. 69, s. 3.

Provisions of Act in lieu of all rights of action against employer.

15. Any party to an action may apply to the Board for adjudication and determination of the question of the plain-

Determination of workman's right to bring action.

tiff's right to compensation under this Part, or as to whether the action is one the right to bring which is taken away by this Part, and such adjudication and determination shall be final and conclusive. R.S.O. 1937, c. 204, s. 14 (2).

Right to compensation may not be waived.

16. It shall not be competent for a workman to agree with his employer to waive or to forego any of the benefits to which he or his dependants are or may become entitled under this Part and every agreement to that end shall be absolutely void. R.S.O. 1937, c. 204, s. 15.

Agreement as to compensation not valid unless approved by the Board.

17.—(1) Where the compensation is payable by an employer individually, no agreement between a workman or dependant and the employer for fixing the amount of the compensation or by which the workman or dependant accepts or agrees to accept a stipulated sum in lieu or in satisfaction of it shall be binding on the workman or dependant unless it is approved by the Board.

Idem.

(2) Subsection 1 shall not apply to compensation for temporary disability lasting for less than four weeks, but in such cases the Board may, on the application of the workman or dependant, or of its own motion, set aside the agreement on such terms as may be deemed just.

Idem.

(3) Nothing in this section shall be deemed to authorize the making of any such agreement except with respect to an accident that has happened and the compensation to which the workman or dependant has become entitled because of it. R.S.O. 1937, c. 204, s. 16.

Deduction not to be made from wages.

18.—(1) It shall not be lawful for an employer, either directly or indirectly, to deduct from the wages of any of his workmen any part of any sum that the employer is or may become liable to pay to the workman as compensation under this Part or to require or to permit any of his workmen to contribute in any manner towards indemnifying the employer against any liability that he has incurred or may incur under this Part.

Penalty.

(2) Every person who contravenes any of the provisions of subsection 1 shall be guilty of an offence and for every such contravention shall on summary conviction be liable to a penalty of not more than \$50 and shall also be liable to repay to the workman any sum that has been so deducted from his wages or that he has been required or permitted to pay in contravention of subsection 1. R.S.O. 1937, c. 204, ss. 17, 96, *part.*

19. Unless with the approval of the Board no sum payable as compensation or by way of commutation of any weekly or other periodical payment in respect of it shall be capable of being assigned, charged or attached, nor shall it pass by operation of law except to a personal representative nor shall any claim be set off against it. R.S.O. 1937, c. 204, s. 18.

Compensation not assignable or liable to attachment.

20.—(1) Subject to subsection 5, compensation or medical aid shall not be payable unless notice of the accident is given as soon as practicable after the happening of it and before the workman has voluntarily left the employment in which he was injured and unless the claim for compensation or medical aid is made within six months from the happening of the accident or in case of death within six months from the time of death. R.S.O. 1937, c. 204, s. 19 (1); 1939, c. 54, s. 2.

Notice of accident.

(2) The notice shall give the name and address of the workman and shall be sufficient if it states in ordinary language the cause of the injury and where the accident happened.

Nature of notice.

(3) The notice may be served by delivering it at or sending it by registered post addressed to the place of business or the residence of the employer, or where the employer is a body of persons, corporate or unincorporate, by delivering it at or sending it by registered post addressed to the employer at the office or if there are more offices than one at any of the offices of such body of persons. R.S.O. 1937, c. 204, s. 19 (2, 3).

Service of notice.

(4) The notice shall also be given to the Board by delivering it to or at the office of the secretary or by sending it to him by registered post addressed to his office. R.S.O. 1937, c. 204, s. 19 (4); 1948, c. 99, s. 2.

Notice to Board.

(5) Failure to give the prescribed notice or to make such claim or any defect or inaccuracy in a notice shall not bar the right to compensation if in the opinion of the Board the employer was not prejudiced thereby or where the compensation is payable out of the accident fund if the Board is of opinion that the claim for compensation is a just one and ought to be allowed. R.S.O. 1937, c. 204, s. 19 (5).

Failure to give, or defect in notice not to affect right to compensation in certain cases.

21.—(1) A workman who claims compensation, or to whom compensation is payable under this Part shall if so required by his employer submit himself for examination by a duly qualified medical practitioner provided and paid for by the employer and shall if so required by the Board submit himself for examination by a medical referee.

Workman to submit to examination.

(2) A workman shall not be required at the request of his employer to submit himself for examination otherwise than in accordance with the regulations. R.S.O. 1937, c. 204, s. 20.

In accordance with regulations.

In case of difference between medical examiners, etc., reference may be made to medical referee.

22.—(1) Where a workman has upon the request of his employer submitted himself for examination, or has been examined by a duly qualified medical practitioner selected by himself, and a copy of the report of the medical practitioner as to the workman's condition has been furnished in the former case by the employer to the workman and in the latter case by the workman to the employer, the Board may, on the application of either of them or of its own motion, refer the matter to a medical referee.

Certificate of medical referee.

(2) The medical referee to whom a reference is made under subsection 1 or who has examined the workman by the direction of the Board under subsection 1 of section 21, shall certify to the Board as to the condition of the workman and his fitness for employment, specifying where necessary the kind of employment and if unfit the cause of such unfitness, and his certificate unless the Board otherwise directs shall be conclusive as to the matters certified.

Failure to submit to examination or obstructing it.

(3) If a workman does not submit himself for examination when required to do so as provided by subsection 1 of section 21, or on being required to do so does not submit himself for examination to a medical referee under that subsection or under subsection 1 of this section, or in any way obstructs any examination, his right to compensation or if he is in receipt of a weekly or other periodical payment his right to it shall be suspended until such examination has taken place. R.S.O. 1937, c. 204, s. 21.

Special medical treatment in certain cases.

23. Where in any case, in the opinion of the Board, it is in the interest of the accident fund to provide a special surgical operation or special medical treatment for a workman, and the furnishing of the same by the Board is, in the opinion of the Board, the only means of avoiding heavy payment for permanent disability, the expense of such operation or treatment may be paid out of the accident fund. R.S.O. 1937, c. 204, s. 22.

Review of compensation.

24. Any weekly or other periodical payment to a workman may be reviewed at the request of the employer or of the workman, if the compensation is payable by the employer individually, or, if the compensation is payable out of the accident fund, of the Board's own motion or at the request of the workman and on such review the Board may put an end to or diminish or increase such payment to a sum not beyond the maximum hereinafter prescribed. R.S.O. 1937, c. 204, s. 23.

Increase of compensation to workman under 21.

25. Where the workman was at the date of the accident under 21 years of age and the review takes place more than six months after the accident, the amount of a weekly payment

may be increased to the sum to which he would have been entitled if his average earnings had at the date of the accident been equal to what if he had not been injured he would probably have been earning at the date of the review. R.S.O. 1937, c. 204, s. 24.

26.—(1) Where the compensation is payable by an employer individually, the employer may, with the consent of the workman or dependant to whom it is payable and with the approval of the Board, but not otherwise, and where it is payable out of the accident fund, the Board may, commute the weekly or other periodical payments payable to a workman or a dependant for a lump sum.

Commutation of payments for lump sum.

(2) Where the lump sum is payable by the employer individually it shall be paid to the Board.

Lump sum to be paid to Board.

(3) The lump sum may be,

Application of lump sum.

- (a) applied in such manner as the workman or dependant may direct;
- (b) paid to the workman or dependant;
- (c) invested by the Board and applied from time to time as the Board may deem most for the advantage of the workman or dependant;
- (d) paid to trustees to be used and employed upon and subject to such trusts and for the benefit of such persons as, in case it is payable by the employer individually, the workman or dependant directs and the Board approves, or, if payable out of the accident fund, as may be desired by the workman or dependant and approved by the Board;
- (e) applied partly in one and partly in another or others of the modes mentioned in clauses *a*, *b*, *c* and *d*,

as the Board may determine.

(4) In any case where the compensation is payable out of the accident fund and where the Board is of opinion that the interest or pressing need of the workman or dependant warrants it, the Board may advance or pay to or for the workman or dependant such lump sum as the circumstances warrant. R.S.O. 1937, c. 204, s. 25.

Advances on account of compensation.

27.—(1) Where a weekly or other periodical payment is payable by the employer individually and has been continued for not less than six months, the Board may on the application of the employer allow the liability therefor to be commuted by the payment of a lump sum of such an amount as, if the

Commutation of weekly payments.

disability is permanent, would purchase an immediate annuity from a life insurance company approved by the Board, equal to 75 per cent of the annual value of the weekly or other periodical payments, and in other cases of such an amount as the Board may deem reasonable.

Application
of lump
sum.

(2) The sum for which a payment is commuted under subsection 1 shall be paid to the Board and shall be dealt with in the manner provided by section 26. R.S.O. 1937, c. 204, s. 26.

Insurance
company
required to
commute
weekly or
other
periodical
payment.

28.—(1) Where an employer insured by a contract of insurance of an insurance company or any other underwriter is individually liable to make a weekly or other periodical payment to a workman or his dependants and the payment has continued for more than six months, the liability shall, if the Board so directs before the expiration of 12 months from the commencement of the disability of the workman or his death, if the accident resulted in death, be commuted by the payment of a lump sum in accordance with section 27, and the company or underwriter shall pay the lump sum to the Board, and it shall be dealt with in the manner provided by section 26.

Where section
not to apply.

(2) This section shall not apply to a contract of insurance entered into before the 1st day of May, 1914. R.S.O. 1937, c. 204, s. 27.

Board may
require
employer to
pay sum
sufficient to
commute.

29. The Board may require an employer who is individually liable to pay the compensation to pay to the Board a sum sufficient to commute in accordance with section 27, any weekly or other periodical payments that are payable by the employer and such sum shall be applied by the Board in the payment of such weekly or other periodical payments as they from time to time become payable, but if the sum paid to the Board is insufficient to meet the whole of such weekly or other periodical payments, the employer shall nevertheless be liable to make such of them as fall due after the sum paid to the Board is exhausted, and if the sum paid is more than sufficient for that purpose, the excess shall be returned to the employer when the right to compensation comes to an end unless otherwise ordered by the Board. R.S.O. 1937, c. 204, s. 28.

Board may
require
employer to
insure his
workmen.

30. The Board may require an employer who is individually liable to pay the compensation to insure his workmen and keep them insured against accidents in respect of which he may become liable to pay compensation in a company approved by the Board for such amount as the Board may direct, and in default of his doing so the Board may cause

them to be so insured and may recover the expense incurred in so doing from the employer in the same way as payment of assessments may be enforced. R.S.O. 1937, c. 204, s. 29.

31.—(1) Where an employer who is individually liable to pay the compensation is insured against his liability to pay compensation, the Board may require the insurance company or other underwriter to pay the sum that under the contract of insurance such company or underwriter would be liable to pay to the employer in respect of an accident to a workman who becomes or whose dependants become entitled to compensation under this Part, directly to the Board in discharge or in discharge *pro tanto* of the compensation to which such workman or his dependants are found to be entitled.

Where employer insured, Board may require insurer to pay amount payable to employer directly to Board.

(2) Where a claim for compensation is made in any case to which subsection 1 applies, notice of the claim shall be given to the insurance company or other underwriter and to the employer, and the Board shall determine not only the question of the right of the workman or dependant to compensation but also the question whether the whole or any part of it should be paid directly by the insurance company or other underwriter as provided by subsection 1.

Notice to be given to insurer.

(3) Section 26 shall apply to the compensation payable to the Board under subsection 1. R.S.O. 1937, c. 204, s. 30.

Section 26 to apply.

32.—(1) Where the accident causes total or partial permanent disability or the death of the workman and the compensation is payable by the employer individually, the Board may require the employer to pay to the Board such sum as in its opinion will be sufficient with the interest thereon if invested so as to earn interest at the rate of five per cent per annum to meet the future payments to be made to the workman or his dependants, and such sum when paid to the Board shall be invested by it and shall form a fund to meet such future payments.

In case of permanent disability employer may be required to pay capital sum.

(2) Instead of requiring the employer to make the payment provided for by subsection 1, the Board may require him to give such security as it may deem sufficient for the future payments. R.S.O. 1937, c. 204, s. 31.

or to give security for payment of compensation.

33. Where the Board deems it requisite for the prompt payment of claims, it may require any employer in Schedule 2 to make deposits of money with it from time to time, out of which it may pay compensation and medical aid for accidents to workmen of such employer as they occur. R.S.O. 1937, c. 204, s. 32; 1946, c. 111, s. 2.

Requiring deposits by employers in Schedule 2.

Provision
for funds
to pay
increased
compensa-
tion.

34.—(1) The additional moneys necessary to provide for increases of compensation in respect of accidents previously happening may be levied and collected by the Board from the employers either now, previously or hereafter carrying on industries under Part I in such manner and at such time or times as the Board may deem most equitable and most in accordance with the general principles of this Act, and in the case of Schedule 1 employers, the levy and collection may be by way of addition to the usual assessment or by levy of special or additional assessment or assessments, and in the case of Schedule 2 employers, by way of additional deposit or capitalized amount as may be necessary to provide for such increases.

Power to
grant
exemptions
in certain
cases.

(2) Where by reason of limit of legal liability or for other cause the Board deems it inequitable or inexpedient to apply subsection 1 to any pension award, the Board shall have power to exempt the same accordingly. R.S.O. 1937, c. 204, s. 33.

Compensa-
tion not
payable
during
suspension.

35. Where a right to compensation is suspended under this Part, no compensation shall be payable in respect of the period of suspension. R.S.O. 1937, c. 204, c. 34.

SCALE OF COMPENSATION

Compensa-
tion in case
of death.

36.—(1) Where death results from an injury irrespective of the date of the accident, the amount of the compensation shall be,

- (a) the necessary expenses of the burial of the workman not exceeding \$125;
- (b) where owing to the circumstances of the case the body of the workman is transferred for a considerable distance for burial, a further sum not exceeding \$125 for necessary extra expenses of the burial thus entailed;
- (c) where the widow or an invalid husband is the sole dependant, a monthly payment of \$50;
- (d) where the dependants are a widow or an invalid husband and one or more children, a monthly payment of \$50, with an additional monthly payment of \$12 to be increased upon the death of the widow or invalid husband to \$20 for each child under the age of 16 years;
- (e) where the dependants are children, a monthly payment of \$20 to each child under the age of 16 years;

- (f) where the dependants are persons other than those mentioned in clauses *c*, *d* and *e*, a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole \$100 per month. 1948, c. 99, s. 3 (1), *part*; 1949, c. 114, s. 2(1).

(2) Where in the opinion of the Board the furnishing of further or better education to a child appears advisable, the Board in its discretion may on application extend the period to which compensation shall be paid in respect of the child for such additional period as is spent by the child in the furthering or bettering of its education but in no case beyond the age of 18 years unless the child in respect of whom compensation is being paid is attending school and reaches the age of 18 years during the school year, in which case compensation may be continued until the conclusion of the school year. 1948, c. 99, s. 3 (1), *part*; 1949, c. 114, s. 2 (2).

(3) Exclusive of the expenses of the burial of the workman and the lump sum of \$100, the monthly compensation payable under subsection 1 shall not in any case exceed the average monthly earnings of the workman, and if the monthly compensation so payable exceeds such earnings it shall be reduced accordingly, and where several persons are entitled to monthly payments the payments shall be reduced proportionately, provided that the minimum monthly compensation shall be, Compensation in death cases, maximum and minimum.

- (a) where the widow or an invalid husband is the sole dependant, \$50;

- (b) where the dependants are a widow or an invalid husband and one or more children, \$50 for the widow or invalid husband with a further payment of \$12, to be increased on the death of the widow or invalid husband to \$20, for each child, not exceeding in the whole \$100; or

- (c) where the dependants are children, \$20 to each child, not exceeding in the whole \$100. 1949, c. 114, s. 2 (3).

(4) Where the workman leaves no widow or the widow subsequently dies, or where there is a mother of a dependent illegitimate child, and it seems desirable to continue the existing household, and an aunt, sister, or mother of an illegitimate child, or other suitable person acts as foster-mother in keeping up such household and maintaining and taking care of the children entitled to compensation in a manner that the Board deems satisfactory, such foster-mother while so doing shall be entitled to receive the same monthly payments of compensation for herself and the children as if she were the widow of Payment of monthly allowance to foster-mother.

the deceased, and in such case the children's part of such payments shall be in lieu of the monthly payments that they would otherwise have been entitled to receive. R.S.O. 1937, c. 204, s. 35 (2); 1943, c. 37, s. 6 (4).

Lump-sum
payment.

(5) In addition to any other compensation provided for the widow, or where the workman leaves no widow, the foster-mother, as in subsection 4 described, shall be entitled to a lump sum of \$100. R.S.O. 1937, c. 204, s. 35 (3).

Duration
of payments
under clause
f of sub-
section 1.

(6) In the case provided for by clause *f* of subsection 1, the payments shall continue only so long as in the opinion of the Board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of the dependants, and in any case under that clause compensation may be made wholly or partly in a lump sum or by such form of payment as the Board in the circumstances deems most suitable. R.S.O. 1937, c. 204, s. 35 (4); 1949, c. 114, s. 2 (4).

Dependants
to whom
workman
stood *in loco*
parentis.

(7) A dependant to whom the workman stood *in loco parentis* or a dependant who stood *in loco parentis* to the workman shall be entitled, as the Board may determine, to share in or receive compensation under clause *d*, *e* or *f* of subsection 1. R.S.O. 1937, c. 204, s. 35 (5); 1949, c. 114, s. 2 (5).

Compensa-
tion to
invalid
child.

(8) Compensation shall be payable to an invalid child without regard to the age of the child and shall continue until the child ceases to be an invalid or dies. 1950, c. 89, s. 3.

Compensa-
tion to
dependants

(9) Where there are both total and partial dependants, the compensation may be allotted partly to the total and partly to the partial dependants.

Board may
apply pay-
ment for
benefit of
children.

(10) Where the Board is of opinion that for any reason it is necessary or desirable that a payment in respect of a child should not be made directly to its parent, the Board may direct that the payment be made to such person or be applied in such manner as the Board may deem most advantageous for the child. R.S.O. 1937, c. 204, s. 35 (6-8).

Marriage
of widow.

37. (1) If a dependant widow marries, the monthly payments to her shall cease, but she shall be entitled in lieu of them to a lump sum equal to the monthly payments for two years, and the lump sum shall be payable within one month after the day of her marriage.

Exception.

(2) Subsection 1 shall not apply to payments to a widow in respect of a child. R.S.O. 1937, c. 204, s. 36.

When pay-
ments to
child to
cease.

38. Subject to subsections 2 and 8 of section 36, a monthly payment in respect of a child shall cease when the child

attains the age of 16 years or dies. R.S.O. 1937, c. 204, s. 37; 1943, c. 37, s. 7; 1948, c. 99, s. 4.

39. Where temporary total disability results from the injury, the compensation shall be a weekly payment of 75 per cent of the workman's average weekly earnings during the previous 12 months if he has been so long employed, but if not then for any less period during which he has been in the employ of his employer, and shall be payable so long as the disability lasts. 1942, c. 41, s. 2, *part*; 1949, c. 114, s. 3.

Temporary
total
disability.

40. Where temporary partial disability results from the injury, the compensation shall be a weekly payment of 75 per cent of the difference between the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident, and shall be payable so long as the disability lasts, and subsection 3 of section 41 shall apply. 1942, c. 41, s. 2, *part*; 1949, c. 114, s. 3.

Temporary
partial
disability.

41.—(1) Where permanent disability results from the injury, the impairment of earning capacity of the workman shall be estimated from the nature and degree of the injury, and the compensation shall be a weekly or other periodical payment during the lifetime of the workman, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 75 per cent of his average weekly earnings ascertained in the manner provided by section 39 and shall be payable notwithstanding clause *a* of subsection 1 of section 3.

Permanent
disability.

(2) The Board may compile a rating schedule of percentages of impairment of earning capacity for specified injuries or mutilations that may be used as a guide in determining the compensation payable in permanent disability cases.

Schedule of
percentages
of impair-
ment of
earning
capacity.

(3) Where the impairment of the earning capacity of the workman does not exceed 10 per cent of his earning capacity, instead of such weekly or other periodical payment the Board shall, unless in the opinion of the Board it would not be to the advantage of the workman to do so, direct that such lump sum as may be deemed to be the equivalent of it shall be paid to the workman.

Payment of
lump sum.

(4) Where the Board deems it more equitable, the Board may award compensation for permanent disability having regard to the difference between the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable occupation after the accident, and the compensation may be a weekly or other periodical payment of 75 per cent of such

Periodical
payments.

difference, and regard shall be had to the workman's fitness to continue in the employment in which he was injured or to adapt himself to some other suitable occupation. 1942, c. 41, s. 2, *part*; 1949, c. 114, s. 3.

Minimum
amount of
compensa-
tion

42. Notwithstanding anything to the contrary in Part I, the amount of compensation to which an injured workman shall be entitled shall not be less than,

(a) for temporary total disability,

(i) where his average earnings are not less than \$15 a week, \$15 a week, and

(ii) where his average earnings are less than \$15 a week, the amount of such earnings,

and for temporary partial or permanent partial disability, a corresponding amount in proportion to the impairment of earning capacity; and

(b) for permanent total disability where the workman is unable to engage in any gainful occupation,

(i) where his average earnings are not less than \$100 a month, \$100, and

(ii) where his average earnings are less than \$100 a month, the amount of such earnings. 1947, c. 119, s. 3.

How average
earnings to
be computed.

43.—(1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the workman was remunerated but not so as in any case to exceed the rate of \$3,000 per annum. R.S.O. 1937, c. 204, s. 43 (1); 1949, c. 114, s. 1.

In case of
shortness of
service or
its casual
nature.

(2) Where, owing to the shortness of the time during which the workman was in the employment of his employer or the casual nature of his employment or the terms of his employment, it is impracticable to compute the rate of remuneration as of the date of the accident, regard may be had to the average weekly or monthly amount which during the 12 months prior to the accident was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed then by a person in the same grade employed in the same class of employment and in the same locality.

Where two
or more
employers.

(3) Where the workman has entered into concurrent contracts of service with two or more employers under which he worked at one time for one of them and at another time for another of them, his average earnings shall be computed

on the basis of what he probably would have been earning if he had been employed solely in the employment of the employer for whom he was working at the time of the accident.

(4) Employment by the same employer means employment by the same employer in the grade in which the workman was employed at the time of the accident uninterrupted by absence from work due to illness or any other unavoidable cause. Meaning of employment by same employer.

(5) Where the employer was accustomed to pay the workman a sum to cover any special expenses entailed on him by the nature of his employment, that sum shall not be reckoned as part of his earnings. Special expenses not to be included.

(6) Where in any case it seems more equitable, the Board may award compensation having regard to the earnings of the workman at the time of the accident. R.S.O. 1937, c. 204, s. 43 (2-6). Board to award compensation in certain cases.

(7) Where a workman is an apprentice or in the course of learning a trade, occupation, profession or calling and his remuneration is of a nominal nature, the Board may for the purposes of this Act determine his average earnings at an amount that it deems fair and equitable having regard to the average earnings of a fully qualified person engaged in the same trade, occupation, profession or calling, and the employer of the workman shall be liable to pay assessment to the Board on the earnings so determined. 1947, c. 119, s. 4. Average earnings of apprentice.

44.—(1) In fixing the amount of compensation to be paid to a workman or his dependants, regard shall be had to any payment, allowance or benefit paid to them by the workman's employer in respect of the workman's accident, including any gratuity or other allowance provided wholly at the expense of the employer. 1943, c. 37, s. 8. Matters to be considered in fixing payments.

(2) Where the compensation is payable out of the accident fund, any sum deducted from the compensation under subsection 1 may be paid to the employer out of the accident fund. R.S.O. 1937, c. 204, s. 44 (2). Payment to employer out of accident fund.

45. Wherever it is deemed advisable, the Board may provide that the payments of compensation shall be fortnightly or monthly instead of weekly, or where the workman or dependant is not a resident of Ontario or ceases to reside therein, may fix the periods of payment otherwise or commute the compensation as the Board may deem proper. R.S.O. 1937, c. 204, s. 45. Provision for fortnightly or monthly payments.

Commuting
compensa-
tion for
lump sum.

46. The Board, for the purpose of enabling the workman to obtain an artificial member, or in any other case where it deems it proper, may, at any time or times, make or direct partial commutation or lump sum payment of his compensation, or otherwise alter the form of payment, as in the circumstances seems most for his advantage. R.S.O. 1937, c. 204, s. 46.

Board may
suspend or
divert com-
pensation
in certain
cases.

47. Where it is found that the widow to whom compensation has been awarded is a common prostitute or is openly living with any man in the relation of man and wife without being married to him, the Board may discontinue or suspend compensation to such widow or divert such compensation in whole or in part to or for the benefit of any other dependant or dependants of the deceased workman. R.S.O. 1937, c. 204, s. 47.

Diverting
compensa-
tion to
benefit of
family.

48. Where a workman is entitled to compensation and it is made to appear to the Board,

- (a) that the workman is no longer residing in Ontario but that his wife or child or children under 16 years of age are still residing therein without adequate means of support and are, or are apt to become, a charge upon the municipality where they reside, or upon private charity; or
- (b) that the workman although still residing in Ontario is not supporting his wife and children as aforesaid and an order has been made against the workman by a court of competent jurisdiction for the support or maintenance of his wife or family, or for alimony,

the Board may divert such compensation in whole or in part from the workman for the benefit of his wife or children. R.S.O. 1937, c. 204, s. 48.

Payments
in case of
infant.

49. Where a workman or a dependant is an infant under the age of 21 years or under any other legal disability, the compensation to which he is entitled may be paid to such person or be applied in such manner as the Board may deem most for his advantage. R.S.O. 1937, c. 204, s. 49.

MEDICAL AID

Medical and
surgical aid
during
disability.

50.—(1) Every workman entitled to compensation under this Part, or who would have been so entitled had he been disabled for seven days, shall be entitled to such medical, surgical and dental aid, the aid of drugless practitioners registered under *The Drugless Practitioners Act*, and hospital and skilled nursing services, and in the discretion of the Board

Rev. Stat.,
c. 110.

where a workman is rendered helpless through permanent total disability, such other treatment, services or attendance as may be necessary as a result of the injury, and shall be entitled to such artificial member or members and apparatus and dental appliances and apparatus as may be necessary as a result of the injury, and to have the same kept in repair or replaced when deemed necessary by the Board.

(2) In this Act, "medical aid" means the medical, surgical and dental aid, the aid of drugless practitioners registered under *The Drugless Practitioners Act*, and hospital and skilled nursing services, and where a workman is rendered helpless through permanent total disability, such other treatment, services or attendance and the artificial member or members and apparatus and repair above-mentioned. Interpretation.

(3) The Board may pay and where the employer is individually liable the Board may order the employer to pay for the replacement or repair of artificial members or apparatus damaged as a result of an accident arising out of and in the course of the employment. Replacement or repair of artificial members and apparatus.

(4) Medical aid shall be furnished or arranged for by the Board or as it may direct or approve and, Payment for medical aid.

(a) in the industries in Schedule 1, shall be paid out of the accident fund and the necessary amount shall be included in the assessments levied upon the employers; and

(b) in the industries in Schedule 2, the amount shall be paid by the employer of the injured workman to the Board for payment.

(5) A workman shall be entitled to such medical aid as may be necessary on or after the 1st day of January, 1947, for an accident happening on or after the 1st day of January, 1915. Accidents on or after Jan. 1st, 1915.

(6) All questions as to the necessity, character and sufficiency of any medical aid furnished or to be furnished shall be determined by the Board. Questions to be determined by Board.

(7) The fees or charges for such medical aid shall not be more than would be properly and reasonably charged to the workman if he was paying the bill, and the amount thereof shall be fixed and determined by the Board, and no action for any amount larger than that fixed by the Board shall lie in respect of any medical aid herein provided for. Amount of charges.

(8) It shall not be lawful for any employer, directly or indirectly, to collect or receive or retain from any workman any contribution toward the expense of medical aid, and Contributions from employees forbidden.

Penalty.

every person contravening this provision shall be guilty of an offence and for every such contravention shall be liable on summary conviction to a penalty of not more than \$50 and shall also be liable, upon the order of the Board, to reimburse the workman treble the amount of any sum so collected, received or retained. 1947, c. 119, s. 5; R.S.O. 1937, c. 204, s. 96, *part*.

Duty of employer under Rev. Stat., c. 306, not affected.

(9) Nothing in this Act shall affect any obligation upon the employer under *The Public Health Act* or any regulation made thereunder, but notwithstanding anything therein contained the employer shall not be entitled, directly or indirectly, to collect, receive or retain from any workman any contribution toward the expense of medical aid.

First-aid appliances may be directed by Board.

(10) Employers in industries in which it is deemed proper may be required by the Board to maintain as may be directed by the Board such first-aid appliances and service as the Board may direct, and the Board may make such order respecting the expense thereof as may be deemed just.

Duty of employer as to furnishing injured workman with transportation.

(11) Every employer shall at his own expense furnish to any workman injured in his employment, who is in need of it, immediate conveyance and transportation to a hospital, or to a physician, or to the workman's home, and any employer failing so to do shall be liable, by order of the Board, to pay for such conveyance and transportation as may be procured by the workman or by anyone for him, or as may be provided by the Board.

Further medical service.

(12) Where, in conjunction with or apart from the medical aid to which workmen are entitled free of charge, further or other service or benefit is, or is proposed to be, given or arranged for, any question arising as to whether or to what extent any contribution from workmen is or would be one prohibited by this Act shall be determined by the Board. R.S.O. 1937, c. 204, s. 50 (9-12).

MEDICAL REPORTS

Reports of medical men and hospital officials.

51. Every physician, surgeon and hospital official attending, consulted respecting, or having the care of any workman shall furnish to the Board from time to time, without additional charge, such reports as may be required by the Board in respect of such workman. R.S.O. 1937, c. 204, s. 51.

REHABILITATION

Aid to injured workmen.

52. To aid in getting injured workmen back to work and to assist in lessening or removing any handicap resulting from their injuries, the Board may take such measures and

make such expenditures as it may deem necessary or expedient, and the expense thereof shall be borne, in Schedule 1 cases, out of the accident fund, and in Schedule 2 cases, by the employer individually, and may be collected in the same manner as compensation or expenses of administration; provided that the total expenditure under this section shall not exceed \$100,000 in any calendar year. R.S.O. 1937, c. 204, s. 52.

THE WORKMEN'S COMPENSATION BOARD

53. The Workmen's Compensation Board is continued as a body corporate of three members appointed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 204, s. 53, *amended*. Workmen's Compensation Board.

54. One of the members shall be appointed by the Lieutenant-Governor in Council to be the chairman of the Board and he shall hold that office while he remains a member of the Board and another of the members shall be appointed by the Lieutenant-Governor in Council to be the vice-chairman of the Board. Chairman and vice-chairman.

55. In the absence of the chairman or in case of his inability to act or if there is a vacancy in the office, the vice-chairman may act as and shall have all the powers of the chairman. R.S.O. 1937, c. 204, s. 54. When vice-chairman may act.

56.—(1) In the case of the death, illness or absence from Ontario of a member or of his inability to act from any cause, the Lieutenant-Governor in Council may appoint some person to act *pro tempore* in his stead and the person so appointed shall have all the powers and perform all the duties of a member. Appointment of member pro tempore.

(2) Subsection 1 shall apply in the case of the chairman of the Board as well as in the case of any other member of it. R.S.O. 1937, c. 204, s. 55. Application of subs. 1.

57. Where the vice-chairman appears to have acted for or instead of the chairman it shall be presumed conclusively that he so acted for one of the reasons mentioned in section 56. R.S.O. 1937, c. 204, s. 56. Presumption where vice-chairman has acted.

58. Subject to section 59 and section 65, each member shall hold office during the pleasure of the Lieutenant-Governor in Council. R.S.O. 1937, c. 204, s. 57, *amended*. Tenure of office of members.

59. Unless otherwise directed by the Lieutenant-Governor in Council a member shall cease to hold office when he attains the age of 75 years. R.S.O. 1937, c. 204, s. 58. Age limit.

Members to
give whole
time to
duties.

60. Each of the members shall devote the whole of his time to the performance of his duties under this Part. R.S.O. 1937, c. 204, s. 59.

Salaries.

61. The salaries of the members shall be fixed by the Lieutenant-Governor in Council and shall be payable out of the accident fund as part of the administration expenses of the Board. R.S.O. 1937, c. 204, s. 60.

Quorum.

62. The presence of two members shall be necessary to constitute a quorum of the Board. R.S.O. 1937, c. 204, s. 61.

Vacancy.

63. A vacancy in the Board shall not, if there remain two members of it, impair the authority of such two members to act. R.S.O. 1937, c. 204, s. 62.

Powers of
Board.

64. The Board shall have the like powers as the Supreme Court for compelling the attendance of witnesses and of examining them under oath, and compelling the production of books, papers, documents and things. R.S.O. 1937, c. 204, s. 63.

Members to
be disqual-
ified in certain
cases.

65.—(1) A member of the Board shall not directly or indirectly,

- (a) have, purchase, take or become interested in any industry to which this Part applies or any bond, debenture or other security of the person owning or carrying it on;
- (b) be the holder of shares, bonds, debentures or other securities of any company that carries on the business of employers' liability or accident insurance;
- (c) have any interest in any device, machine, appliance, patented process or article that may be required or used for the prevention of accidents.

Idem.

(2) If any such industry, or interest therein, or any such share, bond, debenture, security, or thing comes to or becomes vested in a member of the Board by will or by operation of law and he does not within three months thereafter sell and absolutely dispose of it, he shall cease to hold office. R.S.O. 1937, c. 204, s. 64.

Offices of
Board and
sittings.

66. The offices of the Board shall be situated in the city of Toronto and its sittings shall be held there, except where it is expedient to hold sittings elsewhere, and in that case sittings may be held in any part of Ontario. R.S.O. 1937, c. 204, s. 65.

67. The Board shall sit at such times and conduct its proceedings in such manner as it may deem most convenient for the proper discharge and speedy despatch of business. Proceedings of Board.
R.S.O. 1937, c. 204, s. 66.

68.—(1) The Board shall appoint a secretary and a chief medical officer and may appoint such auditors, actuaries, accountants, inspectors, medical referees, other officers, clerks and servants as the Board may deem necessary for carrying out this Part and may prescribe their duties and, subject to the approval of the Lieutenant-Governor in Council, may fix their salaries. Appointment of secretary and officers.

(2) Every person so appointed shall hold office during the pleasure of the Board. R.S.O. 1937, c. 204, s. 67 (1, 2). Tenure of office.

69.—(1) The fund known as The Workmen's Compensation Board Superannuation Fund, for the payment of superannuation allowances or allowances upon the death or disability of an employee or member of the Board, is continued. Superannuation Fund.

(2) Subject to the approval of the Lieutenant-Governor in Council, the Board may make regulations. Regulations.

(a) providing for contributions to the superannuation fund by the Board and by its members and employees;

(b) providing for the terms and conditions upon which any superannuation or other allowance shall be payable out of the superannuation fund and the persons to whom the superannuation or other allowance may be paid.

(3) The cost of maintaining and administering the superannuation fund shall be deemed part of the cost of the administration of this Act and shall be chargeable to the accident fund. 1947, c. 119, s. 7 (1), *amended*. Cost of administering fund.

70.—(1) The Board shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this Part and as to any matter or thing in respect to which any power, authority or discretion is conferred upon the Board, and the action or decision of the Board thereon shall be final and conclusive and shall not be open to question or review in any court and no proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by *certiorari* or otherwise into any court. General jurisdiction of Board.

Specific
jurisdiction
of Board.

(2) Without limiting the generality of subsection 1, such exclusive jurisdiction shall extend to determining,

- (a) whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 1, and if so which of them;
- (b) whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 2, and if so which of them;
- (c) whether any part of any such industry constitutes a part, branch or department of an industry within the meaning of Part 1.

Power to
reconsider.

(3) Nothing in subsection 1 shall prevent the Board from reconsidering any matter that has been dealt with by it or from rescinding, altering or amending any decision or order previously made, all of which the Board shall have authority to do.

Principles
upon which
Board to
decide cases.

(4) The decisions of the Board shall be upon the real merits and justice of the case, and it shall not be bound to follow strict legal precedent. R.S.O. 1937, c. 204, s. 68.

Certificate
of secretary
as evidence.

71. Every copy of or extract from an entry in any book or record of the Board, and of any document filed with the Board, certified by the secretary of the Board to be a true copy or extract, shall be received in any court as *prima facie* evidence of the matter so certified without proof of the secretary's appointment, authority or signature. R.S.O. 1937, c. 204, s. 69.

Power of
Board as to
awarding
compensa-
tion for
expenses.

72. The Board may award such sum as it may deem reasonable to the successful party to a contested claim for compensation or to any other contested matter as compensation for the expenses he has been put to by reason of or incidental to the contest, and an order of the Board for the payment by an employer of any sum so awarded when filed in the manner provided by section 74 shall become a judgment of the court in which it is filed and may be enforced accordingly. R.S.O. 1937, c. 204, s. 70.

Board may
act on
report of
officers.

73.—(1) The Board may act upon the report of any of its officers and any inquiry that it deems necessary to make may be made by any member or officer of the Board or by some other person appointed to make the inquiry, and the Board may act upon his report as to the result of the inquiry.

report before the Assembly, if it is in session, or if not, at the next ensuing session. 1949, c. 114, s. 4.

Superintendent of Insurance to examine into affairs and business of Board.

78. The Superintendent of Insurance or an officer of his Department named by him for that purpose shall whenever required by the Lieutenant-Governor in Council examine into the affairs and business of the Board for the purpose of determining as to the sufficiency of the accident fund and shall report thereon to the Lieutenant-Governor in Council. R.S.O. 1937, c. 204, s. 77.

Provincial grant towards costs of administration.

79. To assist in defraying the expenses incurred in the administration of this Part there shall be paid to the Board out of the Consolidated Revenue Fund such annual sum not exceeding \$100,000 as the Lieutenant-Governor in Council may direct. R.S.O. 1937, c. 204, s. 78.

ACCIDENT FUND

How accident fund to be provided.

80.—(1) An accident fund shall be provided by contributions to be made by the employers in the classes or groups of industries for the time being included in Schedule 1, and compensation payable in respect of accidents that happen in any industry included in any of such classes or groups shall be paid out of the accident fund.

Industries in Schedule 2 not to contribute.

(2) Notwithstanding the generality of the description of the classes for the time being included in Schedule 1, none of the industries included in Schedule 2 shall form part of or be deemed to be included in any of such classes, unless it is added to Schedule 1 by the Board under this Part. R.S.O. 1937, c. 204, s. 79.

Payment of compensation out of reserves or Consolidated Revenue Fund.

81. If at any time there is not money available for payment of the compensation that has become due without resorting to the reserves, the Board may pay such compensation out of the reserves and shall make good the amount withdrawn from the reserves by making a special assessment upon the employers liable to provide the compensation or by including it in a subsequent annual assessment, but if for any reason it is deemed inexpedient to withdraw the amount required from the reserves, the Lieutenant-Governor in Council may direct that the same be advanced out of the Consolidated Revenue Fund and in that case the amount advanced shall be collected by a special assessment and when collected shall be paid over to the Treasurer of Ontario. R.S.O. 1937, c. 204, s. 80.

82. It shall be the duty of the Board at all times to maintain the accident fund so that with the reserves, exclusive of the special reserve, it will be sufficient to meet all the payments to be made out of the fund in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments that are to be made in those years in respect of accidents that have happened previously. R.S.O. 1937, c. 204, s. 81. Sufficiency of accident fund to be maintained.

83.—(1) Subject to section 104, it shall not be obligatory upon the Board to provide and maintain a reserve fund at all times equal to the capitalized value of the payments of compensation that will become due in future years unless the Board is of opinion that it is necessary to do so in order to comply with section 82. Reserve funds.

(2) It shall not be necessary for the reserve fund to be uniform as to all classes but subject to sections 82 and 104 it shall be discretionary with the Board to provide for a larger reserve fund in one or more of the classes than in another or others of them. R.S.O. 1937, c. 204, s. 82. Reserve fund need not be uniform as to all classes.

84.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Board may by regulation, Regulations re Schedules 1 and 2.

- (a) rearrange any of the classes for the time being included in Schedule 1, and withdraw from any class any industry included in it and transfer it wholly or partly to any other class or form it into a separate class, or exclude it from the operation of Part I;
- (b) establish other classes including any of the industries that are for the time being included in Schedule 2, or are not included in any of the classes in Schedule 1;
- (c) add to any of the classes for the time being included in Schedule 1, any industry that is not included in any of such classes; R.S.O. 1937, c. 204, s. 84 (1); 1945, c. 28, s. 4.
- (d) exclude any trade, employment, occupation, calling, avocation or service from any industry for the time being included under Part I or at any time brought under Part I. 1944, c. 69, s. 6.

(2) Where in the opinion of the Board the hazard to workmen in any of the industries embraced in a class is less than that in another or others of such industries, or where for any other reason it is deemed proper to do so, the Board may subdivide the class into sub-classes or groups and if that is done the Board may fix the percentages or proportions of the con- Apportionment of burden of assessment to hazard of business, etc.

tributions to the accident fund that are to be payable by the employers in each sub-class or group.

Separate accounts to be kept for each class, sub-class or group.

(3) Separate accounts shall be kept of the amounts collected and expended in respect of every class, sub-class or group, but for the purpose of paying compensation the accident fund shall, nevertheless, be deemed one and indivisible. 1950, c. 89, s. 5.

Varying amounts of assessment in certain cases.

(4) Where a greater number of accidents has happened in any industry than in the opinion of the Board ought to have happened if proper precautions had been taken for the prevention of accidents in it, or where in the opinion of the Board the ways, works, machinery or appliances in any industry are defective, inadequate or insufficient, the Board may so long as such condition in its opinion continues to exist add to the amount of any contribution to the accident fund for which an employer is liable in respect of such industry such a percentage thereof as the Board may deem just and may assess and levy the same upon such employer, or the Board may exclude such industry from the class in which it is included, and if it is so excluded the employer shall be individually liable to pay the compensation to which any of his workmen or their dependants may thereafter become entitled and such industry shall be included in Schedule 2.

Collection and application of additional percentage.

(5) Any additional percentage levied and collected under subsection 4 shall be added to the accident fund or applied in reduction of the assessment upon the other employers in the class or sub-class to which the employer from whom it is collected belongs as the Board may determine.

Merit system.

(6) Where in the opinion of the Board, the ways, works, machinery and appliances in any industry conform to modern standards in such manner as to reduce the hazard of accidents to a minimum and the Board is convinced that all proper precautions are being taken by the employer for the prevention of accidents, and where the accident record of the employer has in fact been consistently good, the Board may reduce the amount of any contribution to the accident fund for which such employer is liable. R.S.O. 1937, c. 204, s. 84 (4-6).

Injury to minor.

85. Where the Board finds that an employer has employed a minor in violation of the law and a claim for injury to the minor is made, such unlawful employment shall not affect or prejudice the right of the claimant, but the Board may exclude the industry from the class in which it is included and if it is so excluded the employer shall be individually liable to pay

the compensation to which the minor or any dependant of the minor is entitled. R.S.O. 1937, c. 204, s. 85.

86.—(1) The Board may in the exercise of the powers conferred by section 84 withdraw or exclude from a class industries in which not more than a stated number of workmen are usually employed and may afterwards add them to the class or classes from which they have been withdrawn, and any industry so withdrawn or excluded shall not thereafter be deemed to be included in Schedule 1, but no withdrawal or exclusion under the authority of this subsection shall have the effect of excluding any industry from Schedule 2.

Withdraw-
ing small
industries
from classes

(2) Where industries are withdrawn or excluded from a class under the authority of subsection 1, an employer in any of them may, nevertheless, elect to become a member of the class to which but for the withdrawal or exclusion he would have belonged, and if he so elects he shall be a member of that class and as such liable to contribute to the accident fund, and his industry shall be deemed to be embraced in Schedule 1.

Employers
in industries
withdrawn
under subs.
1 may elect
to become
members of
class.

(3) Notice of the election shall be given to the secretary of the Board and the election shall be deemed to have been made when the notice is received by him.

Notice of
election.

(4) A workman in any industry excluded under the authority of subsection 1 may notify the secretary of the Board that he desires such industry to be included in Schedule 1, and such notice upon receipt thereof by the secretary shall have the same effect as a notice of election from the employer. R.S.O. 1937, c. 204, s. 86.

Election of
workman.

87. The powers conferred by sections 84 to 86 may be exercised from time to time and as often as in the opinion of the Board occasion may require. R.S.O. 1937, c. 204, s. 87.

Powers may
be exercised
as occasion
requires.

88. The Board may, upon the application of an employer, add to Schedule 1, for such time and upon such terms and conditions as the Board may determine, any industry or part of an industry, or department of work or service, of such employer.

Additions to
Schedule 1.

89. The Board may, upon the application of an employer, add to Schedule 2, for such time and upon such terms and conditions as the Board may determine, any industry or part of an industry, or department of work or service, of such employer not in Schedule 1. R.S.O. 1937, c. 204, s. 88 (2).

Additions to
Schedule 2.

STATEMENTS TO BE FURNISHED BY EMPLOYERS

90.—(1) Subject to the regulations, every employer shall yearly on or before such date as shall be prescribed by the

Statements
to be fur-
nished by
employers.

Board, and at such other time or times as it may by order or regulation of the Board be required, prepare and transmit to the Board a statement of the amount of the wages earned by all his employees during the year then last past or any part thereof specified by the Board and of the amount which he estimates he will expend for wages during the then current year or any part thereof specified by the Board, and such additional information as the Board may require, both certified to be accurate by the employer or manager of the business or where the employer is a corporation, by an officer of the corporation having a personal knowledge of the matters to which the statements relate. R.S.O. 1937, c. 204, s. 90 (1); 1947, c. 119, s. 8.

Statement
to be
furnished
by employer.

(2) Where an industry coming within any of the classes for the time being included in Schedule 1 is established or commenced on or after the 1st day of January in the then current year, the employer shall forthwith notify the Board of the fact and prepare and transmit to the Board a statement of the amount that he estimates he will expend for wages for the remainder of the year and such other information as the Board may require, certified to be accurate in the manner prescribed by subsection 1. 1950, c. 89, s. 6.

Employer to
keep account
of wages
paid.

(3) Every employer shall keep in such form and with such detail as may be required for the purposes of this Act a careful and accurate account of all wages paid to his employees and such account shall be kept within Ontario and shall be produced to the Board and its officers when so required.

Separate
statements
as to
branches,
etc.

(4) Where the business of the employer embraces more than one branch of business or class of industry, the Board may require separate statements to be made as to each branch or class of industry, and such statements shall be made, verified and transmitted as provided by subsection 1.

Failure to
furnish
statements.

(5) If any employer does not make and transmit to the Board the prescribed statement within the prescribed time, the Board may base any assessment or supplementary assessment thereafter made upon him on such sum as in its opinion is the probable amount of the payroll of the employer and the employer shall be bound thereby, but if it is afterwards ascertained that such amount is less than the actual amount of the pay roll the employer shall be liable to pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed on the basis of his pay roll.

Conse-
quences of
default in
furnishing
statements.

(6) If an employer does not comply with subsection 1, subsection 2, subsection 3, or subsection 4, or if any statement made thereunder is not a true and accurate statement of any

of the matters required to be set forth in it, the employer for every such non-compliance and for every such statement shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500, and default or delay in furnishing any such statement or insufficiency of estimate of expenditure for wages shall also render the employer liable to pay an additional percentage of assessment or to pay interest, as fixed by the Board. R.S.O. 1937, c. 204, ss. 90 (2-5), 96 *part*.

91.—(1) Every assessor of a township, town or village shall yearly on or before the last day for completing his assessment roll make a return to the Board upon forms provided by the Board for the purpose showing the names, addresses, nature of business, and usual number of employees, of all employers of labour carrying on in the municipality any industry or business other than farming or mercantile business. Municipal assessors to make return re employees.

(2) The Board may make remuneration for such return out of the accident fund. R.S.O. 1937, c. 204, s. 91. Payment of assessors.

92.—(1) The Board and any member of it and any officer or person authorized by it for that purpose shall have the right to examine the books and accounts of the employer and to make such other inquiry as the Board may deem necessary for the purpose of ascertaining whether any statement furnished to the Board under section 90 is an accurate statement of the matters that are required to be stated therein or of ascertaining the amount of the pay roll of any employer or of ascertaining whether any industry or person is under the operation of Part I and whether in Schedule 1 or Schedule 2, and for the purpose of any such examination and inquiry the Board and the person so appointed shall have all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. Examination of accounts and books of employer. Rev. Stat., c. 308.

(2) Every employer and every other person who obstructs or hinders the making of the examination and inquiry mentioned in subsection 1 or refuses to permit it to be made shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500. Penalty for obstruction.

(3) Every member of the Board and every officer or person authorized by it to make examination or inquiry under this section shall have power and authority to require and take affidavits, affirmations or declarations as to any matter of such examination or inquiry and for all purposes of this Act to administer oaths, affirmations and declarations and certify to the same having been made. R.S.O. 1937, c. 204, ss. 92, 96 *part, amended*. Officers of Board authorized to take declarations.

Assessment may be made to correspond with pay rolls.

93.—(1) If a statement is found to be inaccurate, the assessment shall be made on the true amount of the pay roll as ascertained by such examination and inquiry, or if an assessment has been made against the employer on the basis of his pay roll being as shown by the statement, the employer shall pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed if the amount of the pay roll had been truly stated, and in addition a sum equal to such difference.

Relief from additional sum.

(2) The Board, if satisfied that the inaccuracy of the statement was not intentional and that the employer honestly desired to furnish an accurate statement, may relieve him from the payment of the additional sum provided for by subsection 1 or any part of it. R.S.O. 1937, c. 204, s. 93.

Board to have right to inspect premises of employer.

94.—(1) The Board and any member of it and any officer or person authorized by it for that purpose shall have the right at all reasonable hours to enter into the establishment of any employer who is liable to contribute to the accident fund and the premises connected with it and every part of them for the purpose of ascertaining whether the ways, works, machinery or appliances therein are safe, adequate and sufficient and whether all proper precautions are taken for the prevention of accidents to the workmen employed in or about the establishment or premises and whether the safety appliances or safeguards prescribed by law are used and employed therein, or for any other purpose which the Board may deem necessary for the purpose of determining the proportion in which such employer should contribute to the accident fund.

Penalty for obstruction.

(2) Every employer and every other person who obstructs or hinders the making of any inspection under subsection 1, or refuses to permit it to be made, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500. R.S.O. 1937, c. 204, ss. 94, 96 *part*.

Information obtained not to be divulged.

95.—(1) No officer of the Board and no person authorized to make an inquiry under this Part shall divulge or allow to be divulged, except in the performance of his duties or under the authority of the Board, any information obtained by him or which has come to his knowledge in making or in connection with an inspection or inquiry under this Part.

Penalty.

(2) Every person who contravenes any of the provisions of subsection 1 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$50. R.S.O. 1937, c. 204, ss. 95, 96 *part*.

ASSESSMENTS

96.—(1) The Board shall in every year assess and levy Assessments, levying of. upon the employers in each of the classes such percentage of pay roll or such other rate or such specific sum as, allowing for any surplus or deficit in the class, it deems sufficient to pay the compensation during the current year in respect of injuries to workmen in the industries within the class, and to provide and pay the expenses of the Board in the administration of this Part for that year or so much thereof as may not be otherwise provided for, and also to maintain a reserve fund to pay the compensation payable in future years in respect of claims in that class for accidents happening in that year, of such an amount as the Board may deem necessary to prevent the employers in future years from being unduly or unfairly burdened with payments that are to be made in those years in respect of accidents that have previously happened.

(2) Such assessments, if the Board sees fit, may be levied Provisional levy. provisionally upon the estimate of pay roll given by the employer or upon an estimate fixed by the Board and, after the actual pay roll has been ascertained, may be adjusted to the correct amount, and the payment of assessments, if the Board sees fit, may be divided into instalments. R.S.O. 1937, c. 204, s. 97.

97.—(1) Where the assessment is based on the pay roll of Deduction from pay roll of proportion of wages. the employer and there is included in it the wages or salary of a workman who has been paid more than at the rate of \$3,000 per annum, the excess shall be deducted from the amount of the pay roll and the assessment shall be based on the amount of it as so reduced. R.S.O. 1937, c. 204, s. 98 (1); 1949, c. 114, s. 1.

(2) It shall not be necessary for the assessment upon the employers in a class, sub-class or group to be uniform, but Assessment need not be uniform. they may be fixed or graded in relation to the hazard of each or of any of the industries included in the class, sub-class or group. R.S.O. 1937, c. 204, s. 98 (2); 1950, c. 89, s. 7.

(3) A system of merit rating may, if deemed proper, be Merit rating. adopted. R.S.O. 1937, c. 204, s. 98 (3).

98.—(1) The Board shall determine and fix the percentage, Rate of assessment to be fixed by the Board. rate or sum for which each employer is assessed under section 96 or 97, or the provisional amount thereof, and each employer shall pay to the Board the amount or provisional amount of his assessment within one month or such other time as the Board may fix after notice of the assessment and of the amount has been given to him, or where payment is to be

made by instalments he shall pay the first instalment within such time and the remaining instalment or instalments at the time or times specified in the notice.

How notice
may be
served.

(2) The notice may be sent by post to the employer and shall be deemed to have been given to him on the day on which the notice was posted.

Revision of
assessments.

(3) When it appears at any time that a statement or estimate of pay roll upon which an assessment or provisional amount of assessment is based is too low, the employer shall upon demand pay to the Board such sum, to be fixed by the Board, as shall be sufficient to bring the payment of assessment up to the proper amount, and payment of any such sum may be enforced in the same manner as the payment of any assessment may be enforced. R.S.O. 1937, c. 204, s. 99.

Insufficient
assessment.

99. If the amount realized from any assessment is insufficient for the purpose for which the assessment was made, the Board may make supplementary assessments to make up the deficiency and section 98 shall apply to such assessments, but the Board may defer assessing for such deficiency until the next annual assessment is made and then include it in such assessment. R.S.O. 1937, c. 204, s. 100.

All classes
may be as-
sessed for
deficiency in
any of them.

100.—(1) Where any deficiency in the amount realized from any assessment in any class is caused by the failure of some of the employers in that class to pay their share of the assessment or by any disaster or other circumstance that in the opinion of the Board would unfairly burden the employers in that class, the deficiency or loss shall be made up by supplementary assessments upon the employers in all the classes and section 98 shall apply to such assessments, but the Board may defer assessing for such deficiency or loss until the next annual assessment is made and then include it in such assessment.

Special fund.

(2) The Board where it deems proper may add to the assessment for any class or classes or for all the classes in Schedule 1 a percentage or sum for the purpose of raising a special fund to be laid aside and used to meet the loss arising from any disaster or other circumstance that in the opinion of the Board would unfairly burden the employers in any class. R.S.O. 1937, c. 204, s. 101.

Where
deficiency
made good.

101. If and so far as any deficiency mentioned in sections 99 and 100 is afterwards made good wholly or partly by the defaulting employer, the amount that has been made good shall be apportioned between the other employers in the proportions in which the deficiency was made up by them by the payment of supplementary assessments upon them and shall

be credited to them in making the next assessment. R.S.O. 1937, c. 204, s. 102 (1).

102.—(1) If for any reason an employer liable to assessment is not assessed in any year, he shall nevertheless be liable to pay to the Board the amount for which he should have been assessed, and payment of that amount may be enforced in the same manner as the payment of an assessment may be enforced. Employer not assessed.

(2) Any sum collected from an employer under subsection 1 shall be taken into account by the Board in making an assessment in a subsequent year on the employers in the class or sub-class to which such employer belonged. R.S.O. 1937, c. 204, s. 102 (2, 3). Amount collected to be taken into account in making subsequent assessment.

103. Notwithstanding that the deficiency arising from a default in the payment of the whole or part of any assessment has been made up by a special assessment, a defaulting employer shall continue liable to pay to the Board the amount of every assessment made upon him or so much of it as remains unpaid. R.S.O. 1937, c. 204, s. 103. Employer liable to pay unpaid sums.

104. Whenever the Lieutenant-Governor in Council is of opinion that the condition of the accident fund is such that with the reserves, exclusive of the special reserve, it is not sufficient to meet all the payments to be made in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments that are to be made in those years in respect of accidents that have happened in previous years, he may require the Board to make a supplementary assessment of such sum as in his opinion is necessary to be added to the fund, and when such a requirement is made the Board shall make such supplementary assessment forthwith and it shall be made in like manner as is hereinbefore provided as to other special assessments and all the provisions of this Part as to special assessments shall apply to it. R.S.O. 1937, c. 204, s. 104. Lieutenant-Governor in Council may require supplementary assessments to be made.

105. In order to maintain the accident fund as provided by section 82 the Board may from time to time and as often as may be deemed necessary include in any sum to be assessed upon the employers and may collect from them such sums as may be deemed necessary for that purpose and the sums so collected shall form a reserve fund and shall be invested in securities issued by the Province of Ontario or in securities the payment of which is guaranteed by it or in securities issued by the Dominion of Canada or in securities the pay- Formation of reserves.

ment of which is guaranteed by it. R.S.O. 1937, c. 204, s. 105; 1942, c. 41, s. 3; 1944, c. 69, s. 7.

Additional percentage for non-payment of assessment.

106. If an assessment or a special assessment is not paid when it becomes payable, the defaulting employer shall be liable to pay and shall pay for his default such a percentage upon the amount unpaid as may be prescribed by the regulations or as may be determined by the Board. R.S.O. 1937, c. 204, s. 106.

Failure to make return or pay assessment.

107.—(1) Any employer who refuses or neglects to make or transmit any pay roll, return or other statement required to be furnished by him under section 90, or who refuses or neglects to pay any assessment or special or supplementary assessment or the provisional amount of any assessment, or any instalment or part thereof, shall, in addition to any penalty or other liability to which he may be subject, pay to the Board the full amount or capitalized value, as determined by the Board, of the compensation and medical aid payable in respect of any accident to a workman in his employ that happens during the period of such default, and the payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced. R.S.O. 1937, c. 204, s. 107 (1); 1950, c. 89, s. 8.

Relieving clause.

(2) The Board, if satisfied that such default was excusable, may in any case relieve such employer in whole or in part from liability under this section. R.S.O. 1937, c. 204, s. 107 (2).

Collection of unpaid assessments.

108. Where default is made in the payment of any assessment, or special assessment, or any part of it, the Board may issue its certificate stating that the assessment was made, the amount remaining unpaid on account of it and the person by whom it was payable, and such certificate or a copy of it certified by the secretary to be a true copy may be filed with the clerk of any county or district court or where the amount remaining unpaid does not exceed \$200, with the clerk of any division court, and when so filed shall become an order of that court and may be enforced as a judgment of the court against such person for the amount mentioned in the certificate. R.S.O. 1937, c. 204, s. 108.

Board may collect assessment through municipal collectors.

109.—(1) If an assessment or a special assessment or any part of it remains unpaid for 30 days after it has become payable, the Board, in lieu of or in addition to proceeding as provided by section 108, may issue its certificate stating the name and residence of the defaulting employer, the amount unpaid on the assessment, the establishment in respect of which it is payable, and upon the delivery of the certificate to the clerk of the municipality in which the establishment

is situate he shall cause the amount so remaining unpaid as stated in the certificate to be entered upon the collector's roll as if it were taxes due by the defaulting employer in respect of such establishment, and it shall be collected in like manner as taxes are levied and collected and the amount when collected shall be paid over by the collector to the Board.

(2) The collector shall be entitled to add five per cent thereof to the amount to be collected and to retain such percentage for his services in making the collection. R.S.O. 1937, c. 204, s. 109. Collector entitled to percentage.

110.—(1) Where an employer engages in any of the industries for the time being included in Schedule 1 and has not been assessed in respect of it, the Board, if it is of opinion that the industry is to be carried on only temporarily, may require the employer to pay or to give security for the payment to the Board of a sum sufficient to pay the assessment for which the employer would have been liable if the industry had been in existence when the next preceding assessment was made. Case of industry temporarily carried on.

(2) The Board shall have the like powers and be entitled to the like remedies for enforcing payment of any such sum as it possesses or is entitled to in respect of assessments. Powers of Board.

(3) Every employer who makes default in complying with subsection 1 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$200 and an additional penalty of not more than \$20 per day for every day on which the default continues. R.S.O. 1937, c. 204, ss. 111, 96 *part*. Penalty.

111. In the case of a work or service performed by an employer in any of the industries for the time being included in Schedule 1 for which the employer would be entitled to a lien under *The Mechanics' Lien Act*, it shall be the duty of the owner as defined by that Act to see that any sum that the employer is liable to contribute to the accident fund is paid and if any such owner fails to do so he shall be personally liable to pay it to the Board, and the Board shall have the like powers and be entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment. R.S.O. 1937, c. 204, s. 112. Liability of owner under Rev. Stat., c. 227, for contribution of employer to accident fund.

112.—(1) There shall be included among the debts which, under *The Assignments and Preferences Act*, *The Trustee Act*, and *The Companies Act*, are, in the distribution of the property, in the case of an assignment or death or in the distribution of the assets of a company being wound up, under the Distribution of assets. Rev. Stat., cc. 26, 400, 59.

said Acts respectively, to be paid in priority to all other debts, the amount of any assessment or compensation the liability wherefor accrued before the date of the assignment or death or before the date of the commencement of the winding up, and the said Acts shall have effect accordingly.

Periodical
payments of
compensation.

(2) When the compensation is a periodical payment, the liability in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum, to be determined by the Board, for which the periodical payments may be commuted.

Limit of
priority.

(3) Priority in respect of any individual claim for compensation shall not exceed \$500. R.S.O. 1937, c. 204, s. 113.

RETURNS OF ACCIDENTS

Employers
to give notice
of accidents.

113.—(1) Every employer, within three days after the happening of an accident to a workman in his employment by which the workman is disabled from earning full wages or that necessitates medical aid, shall notify the Board in writing of,

- (a) the happening of the accident and the nature of it;
- (b) the time of its occurrence;
- (c) the name and address of the workman;
- (d) the place where the accident happened;
- (e) the name and address of the physician or surgeon, if any, by whom the workman was or is attended for the injury,

and shall in any case furnish such further details and particulars respecting any accident or claim to compensation as the Board may require. R.S.O. 1937, c. 204, s. 114 (1).

Penalty.

(2) For every contravention of subsection 1 the employer shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$50. R.S.O. 1937, c. 204, ss. 114 (2), 96 *part.*

Default in
reporting
accident or
claim.

(3) Every employer who makes default in reporting or furnishing particulars of any accident or claim shall in addition to any other penalty or liability pay to the Board, if so ordered by the Board, the amount of compensation and medical aid awarded in respect of such accident or claim in accordance with the evidence or information otherwise obtained by the Board. R.S.O. 1937, c. 204, s. 114 (3).

INDUSTRIAL DISEASES

Certain
industrial
diseases to
be deemed
accidents.

114.—(1) Where a workman suffers from an industrial disease and is thereby disabled from earning full wages at the

work at which he was employed or his death is caused by an industrial disease and the disease is due to the nature of any employment in which he was engaged, whether under one or more employments, the workman or his dependants shall be entitled to compensation as if the disease was a personal injury by accident and the disablement was the happening of the accident, subject to the modifications hereinafter mentioned or contained in the regulations, unless at the time of entering into the employment he had wilfully and falsely represented himself in writing as not having previously suffered from the disease. R.S.O. 1937, c. 204, s. 115 (1); 1942, c. 41, s. 4 (1); 1946, c. 111, s. 5.

(2) Where the compensation is payable by an employer individually, it shall be payable by the employer who last employed the workman in the employment to the nature of which the disease was due. By whom compensation payable.

(3) The workman or his dependants if so required shall furnish the employer mentioned in subsection 2 with such information as to the names and addresses of all the other employers by whom he was employed in the employment to the nature of which the disease was due as such workman or his dependants may possess, and if such information is not furnished or is not sufficient to enable that employer to take the proceedings mentioned in subsection 4 that employer upon proving that the disease was not contracted while the workman was in his employment shall not be liable to pay compensation. R.S.O. 1937, c. 204, s. 115 (2, 3); 1942, c. 41, s. 4 (2). Names of former employers to be furnished by claimants.

(4) If that employer alleges that the disease was in fact contracted while the workman was in the employment of some other employer, he may bring such employer before the Board and if the allegation is proved that other employer shall be the employer by whom the compensation shall be paid. R.S.O. 1937, c. 204, s. 115 (4). Last employer may bring in former employers.

(5) If the disease is of such a nature as to be contracted by a gradual process, any other employers who employed the workman in the employment to the nature of which the disease was due shall be liable to make to the employer by whom the compensation is payable such contributions as the Board may determine to be just. Where disease result of gradual process, former employers to contribute.

(6) The amount of the compensation shall be fixed with reference to the earnings of the workman under the employer by whom the compensation is payable, and the notice provided for by section 20 shall be given to the employer who last employed the workman in the employment to the nature of which the disease was due and the notice may be given not- How compensation to be fixed.

withstanding that the workman has voluntarily left the employment. R.S.O. 1937, c. 204, s. 115 (5, 6); 1942, c. 41, s. 4 (2).

Charging compensation to particular classes.

(7) Where the compensation is payable out of the accident fund, the Board shall make such investigation as it deems necessary to ascertain the class or classes against which the compensation should be charged and shall charge or apportion the compensation accordingly.

Presumptions as to disease being due to nature of employment.

(8) If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of Schedule 3 and the disease contracted is the disease in the first column of the Schedule set opposite to the description of the process, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved, but, except where the Board is satisfied that the disease is not due to any other cause than his employment in Ontario, no compensation shall be payable under this section unless the workman has been a resident of Ontario for the three years next preceding his first disablement. R.S.O. 1937, c. 204, s. 115 (7, 8).

Appointment of medical officers, mines.

Rev. Stat., c. 236.

(9) The Board may appoint such medical officers as may be required to carry out *The Mining Act* with regard to the examination of employees or applicants for employment, and the remuneration and expenses of such officers shall be paid out of the rates imposed for payment of silicosis claims. R.S.O. 1937, c. 204, s. 115 (12).

Condition upon which compensation granted.

(10) Nothing in this Act shall entitle a workman or his dependants to compensation, medical aid, or payment of burial expenses for disability or death from silicosis unless the workman has been actually exposed to silica dust in his employment in Ontario for periods amounting in all to at least two years preceding his disablement. R.S.O. 1937, c. 204, s. 115 (13); 1944, c. 69, s. 8 (2).

Saving.

(11) Nothing in this section shall affect the right of a workman to compensation in respect of a disease to which this section does not apply if the disease is the result of an injury in respect of which he is entitled to compensation under this Part. R.S.O. 1937, c. 204, s. 115 (14).

Extension of section to pneumoconiosis, etc.

(12) The provisions of this section relating to silicosis shall apply *mutatis mutandis* to pneumoconiosis and stone worker's or grinder's phthisis. R.S.O. 1937, c. 204, s. 115 (15); 1943, c. 37, s. 9.

Additional industrial diseases.

(13) The Board, subject to the approval of the Lieutenant-Governor in Council, may declare any disease to be an industrial disease and may amend Schedule 3 accordingly. 1950, c. 89, s. 10.

FORMATION OF ASSOCIATIONS AND COMMITTEES

115.—(1) The employers in any of the classes for the time being included in Schedule 1 may form themselves into an association for accident prevention and may make rules for that purpose. Associations of employers may be formed.

(2) If the Board is of opinion that an association so formed sufficiently represents the employers in the industries included in the class, the Board may approve such rules, and when approved by the Board and by the Lieutenant-Governor in Council they shall be binding on all the employers in industries included in the class. Rules of associations.

(3) Where an association under the authority of its rules appoints an inspector or an expert for the purpose of accident prevention, the Board may pay the whole or any part of the salary or remuneration of such inspector or expert out of the accident fund or out of that part of it which is at the credit of any one or more of the classes as the Board may deem just. Inspectors.

(4) The Board may in any case where it deems proper make a grant towards the expenses of any such association. Expenses of associations.

(5) Any moneys paid by the Board under this section shall be charged against the class represented by such association and levied as part of the assessment against such class. Where charged.

(6) The word "class" in this section includes sub-class or such part of a class or such number or classes or parts of classes in Schedule 1 as may be approved by the Board. Interpretation.
R.S.O. 1937, c. 204, s. 116.

116.—(1) The employers in any of the classes for the time being included in Schedule 1 may appoint a committee of themselves, consisting of not more than five employers, to watch over their interests in matters to which this Part relates. Committee of employers.

(2) Where a claim is for compensation for an injury for which the employers in any such class would be liable, if the Board is of the opinion that the committee sufficiently represents such employers, and the committee certifies to the Board that it is satisfied that the claim should be allowed, the Board may act on the certificate and may also act upon the certificate of the committee as to the proper sum to be awarded for compensation if the workman or dependant is satisfied with the sum named in the certificate. Board may act on certificate of committee as to payment of compensation.

(3) The committee may be the medium of communication on the part of the class with the Board. R.S.O. 1937, c. 204, s. 117. Medium of communication.

CONTRIBUTION BY EMPLOYERS IN SCHEDULE 2

Contribution by employers individually liable to expenses of administration.

117. Employers in industries for the time being included in Schedule 2 shall pay to the Board such proportion of the expenses of the Board in the administration of this Part as the Board may deem just and determine, and the sum payable by them shall be apportioned between such employers and be assessed and levied in like manner as in the case of assessments for contributions to the accident fund, and the provisions of this Part as to making such assessments shall apply *mutatis mutandis* to assessments made under the authority of this section. R.S.O. 1937, c. 204, s. 118.

Application of penalties.

118. The penalties recovered for an offence against this Part shall be paid over to the Board and shall form part of the accident fund. R.S.O. 1937, c. 204, s. 96, *part*.

Application of Part I.

119. This Part shall apply only to the industries mentioned in Schedules 1 and 2 and to such industries as are added to them under the authority of this Part and to employments therein, and shall apply to any employment by or under the Crown in right of the Province, including any employment by any permanent board or commission appointed by the Crown in right of the Province. R.S.O. 1937, c. 204, s. 119; 1944, c. 69, s. 9.

PART II

Application of sections 122 to 124.

120. Subject to section 123, sections 121 and 122 shall apply only to the industries to which Part I does not apply and to the workmen employed in such industries, but outworkers and persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business, who are employed in industries under Part I but who are excluded from the benefit of Part I, shall not by this section be excluded from the benefit of sections 121 and 122. R.S.O. 1937, c. 204, s. 120.

Liability of employer for defective ways, works, etc., and for negligence of his servants.

121.—(1) Where personal injury is caused to a workman by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of his employer or by reason of the negligence of his employer or of any person in the service of his employer acting within the scope of his employment, the workman or if the injury results in death the legal personal representatives of the workman and any person entitled in case of death shall have an action against the employer, and if the action is brought by the workman he shall be entitled to recover from the employer the damages sustained by the workman by or in consequence of the injury, and if the action is brought by the legal personal representatives of the workman or by or on behalf of persons

entitled to damages under *The Fatal Accidents Act* they shall be entitled to recover such damages as they are entitled to under that Act. Rev. Stat., c. 132.

(2) Where the execution of any work is being carried into effect under any contract, and the person for whom the work is done owns or supplies any ways, works, machinery, plant, buildings or premises, and by reason of any defect in the condition or arrangement of them personal injury is caused to a workman employed by the contractor or by any subcontractor, and the defect arose from the negligence of the person for whom the work or any part of it is done or of some person in his service and acting within the scope of his employment, the person for whom the work or that part of the work is done shall be liable to the action as if the workman had been employed by him, and for that purpose shall be deemed to be the employer of the workman within the meaning of this Act, but any such contractor or subcontractor shall be liable to the action as if this subsection had not been enacted but not so that double damages shall be recoverable for the same injury. Liability of person supplying defective ways, works plant, etc.

(3) Nothing in subsection 2 shall affect any right or liability of the person for whom the work is done and the contractor or subcontractor as between themselves. Liability of contractor and subcontractor.

(4) A workman shall not by reason only of his continuing in the employment of the employer with knowledge of the defect or negligence that caused his injury be deemed to have voluntarily incurred the risk of the injury. R.S.O. 1937, c. 204, s. 121. Effect of continuance in employment after knowledge.

122.—(1) A workman shall be deemed not to have undertaken the risks due to the negligence of his fellow workmen, and contributory negligence on the part of a workman shall not be a bar to recovery by him or by any person entitled to damages under *The Fatal Accidents Act* in an action for the recovery of damages for an injury sustained by or causing the death of the workman while in the service of his employer for which the employer would otherwise have been liable. R.S.O. 1937, c. 204, s. 122. Certain common law rules abrogated. Rev. Stat., c. 132.

(2) Contributory negligence on the part of the workman shall nevertheless be taken into account in assessing the damages in any such action. R.S.O. 1937, c. 204, s. 123. Contributory negligence.

123.—(1) This Act shall not apply to the industry of farming or to domestic or menial servants or their employers. R.S.O. 1937, c. 204, s. 124. Farm labourers and domestic servants excluded.

(2) Notwithstanding anything in subsection 1, the industry of farming may be brought under Part I by application of the employer pursuant to section 88. 1944, c. 69, s. 10. Farming industry.

CHAPTER 431

The Workmen's Compensation Insurance Act

- 1.** In this Act, "workman" includes the dependants of a workman entitled to recover damages under *The Fatal Accidents Act*. R.S.O. 1937, c. 206, s. 1. Interpretation.
Rev. Stat.,
c. 132.
- 2.** Where an employer is insured against his liability for damages to a workman under any Act of the Legislature, the insurance shall be deemed to be for and shall enure to the benefit of the workman, and if a workman has suffered injury in respect of which he is entitled to recover damages from his employer, the insurer shall not, without the consent of the workman, pay to the employer the amount for which the insurer is liable to him in respect of such injury, unless or until the claim of the workman has been satisfied, and the workman if and when his right to recover the damages has been determined as against the employer shall be entitled to demand and recover from the insurer the amount of the damages and costs to the extent to which, but no further than, the employer is entitled to recover the same from the insurer. R.S.O. 1937, c. 206, s. 2. Claim of
workman on
insurance
moneys
payable to
employer.
- 3.** This Act shall not apply to a workman who is entitled to compensation under Part I of *The Workmen's Compensation Act*. R.S.O. 1937, c. 206, s. 3. Where Act
not to
apply.
Rev. Stat.,
c. 430.
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